

1	1	3
1	IN THE UNITED STATES DISTRICT COURT	1
2	FOR THE SOUTHERN DISTRICT OF TEXAS	2
3	CORPUS CHRISTI DIVISION	2
4	MARC VEASEY, et al.,)	3
5	Plaintiffs,)	4
6	v.) CIVIL ACTION NUMBER	5
7	RICK PERRY, et al.,) 2:13-cv-193(NGR)	6
8	Defendants.)	7
9	*****	8
10	ORAL 30 (b)(6) DEPOSITION OF THE TEXAS DEPARTMENT OF	9
11	PUBLIC SAFETY	10
12	JOE PETERS	11
13	APRIL 30, 2014	12
14	*****	13
15	ORAL DEPOSITION OF JOE PETERS, produced as a	14
16	witness at the instance of Plaintiffs, and duly sworn,	15
17	was taken in the above-styled and numbered cause on	16
18	April 30, 2014, from 8:54 a.m. to 4:52 p.m. before Kim	17
19	Seibert, CSR in and for the State of Texas, reported by	18
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22	pursuant to the Federal Rules of Civil Procedure and/or	21
23	the provisions stated on the record or attached hereto.	22
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JOE PETERS

4/30/2014

2 (Pages 5 to 8)

5	<p>1 INDEX</p> <p>2 Appearances..... 2</p> <p>3</p> <p>4 JOE PETERS</p> <p>5 Examination by Mr. Freeman..... 8</p> <p>6 Examination by Mr. Brazil..... 147</p> <p>7 Examination by Mr. Dunbar..... 189</p> <p>8 Examination by Ms. Clark..... 238</p> <p>9 Examination by Mr. Doggett..... 301</p> <p>10 Further Examination by Mr. Freeman..... 320</p> <p>11 Further Examination by Mr. Dunbar..... 323</p> <p>12 Witness' Signature Page..... 330</p> <p>13 Reporter's Certificate..... 332</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	7	<p>1 Exhibit 56 276</p> <p>2 Manual Entitled</p> <p>3 "Election</p> <p>4 Identification</p> <p>5 Certificate County Set</p> <p>6 Up and Issuance</p> <p>7 Training"</p> <p>8</p> <p>9 Exhibit 57 277</p> <p>10 Printout of Election</p> <p>11 Identification</p> <p>12 Certificates, EIC</p> <p>13 Documentation</p> <p>14 Requirements date</p> <p>15 stamped 4/27/2014</p> <p>16</p> <p>17 Exhibit 58 285</p> <p>18 Poster: Election Identification</p> <p>19 Certificates Available</p> <p>20 Here</p> <p>21</p> <p>22 Exhibit 59 289</p> <p>23 E-mail from Keith Ingram to</p> <p>24 Joyce Cohen entitled,</p> <p>25 "Mobile EIC"</p> <p>Exhibit 60 293</p> <p>Media Publication Outreach</p> <p>Election Identification</p> <p>Certificates</p> <p>Exhibit 61 302</p> <p>EIC Application</p> <p>Exhibit 62 322</p> <p>Report showing 53 EICs</p>
6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	8	<p>1 MR. FREEMAN: Okay. We're on the record.</p> <p>2 JOE PETERS,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. FREEMAN:</p> <p>6 Q. Mr. Peters, thank you for taking the time for</p> <p>7 the deposition. If you could please state your name</p> <p>8 for the record.</p> <p>9 A. Joe Peters.</p> <p>10 Q. So my name is Dan Freeman, and I represent the</p> <p>11 United States of America in this matter. And I'll</p> <p>12 allow the others in the room -- we have several other</p> <p>13 attorneys in the room. I'll allow them to introduce</p> <p>14 themselves for the record as well.</p> <p>15 A. Okay.</p> <p>16 MR. BRAZIL: Scott Brazil for the</p> <p>17 Veasey plaintiffs.</p> <p>18 MR. DUNBAR: Kelly Dunbar for the Texas</p> <p>19 League of Young Voters Group.</p> <p>20 MR. ALI: Hasan Ali for the Texas League</p> <p>21 of Young Voters Group.</p> <p>22 MS. CLARK: Jennifer Clark for MALC and</p> <p>23 Texas NAACP.</p> <p>24 MS. RUDD: Amy Rudd for MALC and Texas</p> <p>25 NAACP.</p>

JOE PETERS

4/30/2014

3 (Pages 9 to 12)

<p style="text-align: right;">9</p> <p>1 MR. DOGGETT: Robert Doggett, Ortiz</p> <p>2 plaintiffs.</p> <p>3 MR. KEISTER: Ronnie Keister for the</p> <p>4 defendants, along with Lindsay Wolf and Stephen Tatum</p> <p>5 and Kathleen Murphy as general counsel for DPS and the</p> <p>6 witness.</p> <p>7 MR. FREEMAN: And joining by phone is my</p> <p>8 colleague, Elizabeth Westfall, who also represents the</p> <p>9 United States, although she will not be speaking.</p> <p>10 Q. (BY MR. FREEMAN) Sir, have you ever been</p> <p>11 deposed before?</p> <p>12 A. Yes, I have.</p> <p>13 Q. So you know the basic rules. But just so that</p> <p>14 we're clear, a deposition functions by question and</p> <p>15 answer. So I'll be asking questions --</p> <p>16 A. Yes, sir.</p> <p>17 Q. -- you'll be answering questions. The court</p> <p>18 reporter needs to be able to get everything down for</p> <p>19 the record, so it's important for you to articulate</p> <p>20 rather than gesture --</p> <p>21 A. Understood.</p> <p>22 Q. -- when you answer. Thank you.</p> <p>23 It's also important that we don't speak</p> <p>24 over each other, so -- because the court reporter can</p> <p>25 only get down one thing at time. So if you can wait</p>	<p style="text-align: right;">11</p> <p>1 the middle of an answer, I'll need you to finish up</p> <p>2 your answer first and then you can speak to your</p> <p>3 attorney.</p> <p>4 A. Okay.</p> <p>5 Q. Do you understand?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Sometimes you'll remember things later in the</p> <p>8 day. If that happens, please let know while it's on</p> <p>9 your mind and well add it to the record. Will you do</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. I'll give you regular chances to do that as</p> <p>13 well. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. Sometimes after we've been talking for a while</p> <p>16 you may realize that a prior answer was not entirely</p> <p>17 accurate or complete. If you realize that, will you</p> <p>18 let me know so we can correct the record?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And sometimes while you're answering you may</p> <p>21 think of a document that would help you remember or</p> <p>22 help you answer more accurately. If you do, will you</p> <p>23 let me know?</p> <p>24 A. Yes.</p> <p>25 Q. We have a bunch of documents here and we may</p>
<p style="text-align: right;">10</p> <p>1 until I'm done answering my question before you answer</p> <p>2 and I will make sure not to interrupt your answer with</p> <p>3 another question.</p> <p>4 A. Understood.</p> <p>5 Q. Do you understand?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Thank you.</p> <p>8 So the purpose of the deposition is in</p> <p>9 order to record your testimony to the full extent of</p> <p>10 your knowledge. So we need you to give full and</p> <p>11 complete answers to my questions. Do you understand?</p> <p>12 A. Yes, sir.</p> <p>13 Q. I may not always be clear. If you don't</p> <p>14 understand, can you ask me to restate the question?</p> <p>15 A. Sure.</p> <p>16 Q. If you need a break, please tell me and we'll</p> <p>17 finish the current question and then see about a break.</p> <p>18 Is that all right?</p> <p>19 A. Yes, sir. Yes, sir.</p> <p>20 Q. If you need to get up for more water or for a</p> <p>21 cup of coffee, please do that between questions and not</p> <p>22 while a question is pending. Do you understand?</p> <p>23 A. Yes, sir.</p> <p>24 Q. If you want to talk to your attorney, that's</p> <p>25 fine. But if there's a question pending or you're in</p>	<p style="text-align: right;">12</p> <p>1 not be able to get -- and we may be able to get a</p> <p>2 document in order to assist you even if we don't have</p> <p>3 it at present. Okay?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Are you on any -- and this just a standard</p> <p>6 question. Are you on any medication or drugs that</p> <p>7 might make it difficult for you to understand or answer</p> <p>8 questions?</p> <p>9 A. No.</p> <p>10 Q. Have you had anything alcoholic to drink in</p> <p>11 the last eight hours?</p> <p>12 A. No, sir.</p> <p>13 Q. Are you at all sick today in a manner that</p> <p>14 would prevent you from understanding my questions or</p> <p>15 recalling the answers to them?</p> <p>16 A. No, sir.</p> <p>17 Q. Is there any reason you can think of why you</p> <p>18 would not be able to answer my questions fully and</p> <p>19 accurately?</p> <p>20 A. No, sir.</p> <p>21 Q. And the last thing, I want to remind you that</p> <p>22 you're under oath and subject to federal penalties for</p> <p>23 giving false or misleading testimony. So it's</p> <p>24 important to answer my questions truthfully,</p> <p>25 accurately, and completely. Do you understand?</p>

JOE PETERS

4/30/2014

4 (Pages 13 to 16)

<p style="text-align: right;">13</p> <p>1 A. Yes, sir.</p> <p>2 Q. Any questions so far?</p> <p>3 A. No, sir.</p> <p>4 Q. That was the easy part.</p> <p>5 Mr. Peters, what is your position?</p> <p>6 A. I'm the assistant director at the Department</p> <p>7 of Public Safety for the driver's license division.</p> <p>8 Q. And what are your responsibilities in that</p> <p>9 position?</p> <p>10 A. I oversee driver licensing, ID card issuance,</p> <p>11 and election identification card issuance, enforcement</p> <p>12 and compliance, policy and business improvement, and</p> <p>13 business intelligence in the driver's license division.</p> <p>14 Q. And with regard to that supervision, is that</p> <p>15 mostly at a policy level, is there a certain amount of</p> <p>16 communication? Well, first, is that generally at a</p> <p>17 policy level?</p> <p>18 A. Yes.</p> <p>19 Q. Do you communicate directly with supervisors</p> <p>20 at the various DPS regions?</p> <p>21 A. I do.</p> <p>22 Q. Under what circumstances?</p> <p>23 A. The circumstances vary where I may communicate</p> <p>24 with regional commanders across the state. Probably</p> <p>25 the majority of those communications, from my</p>	<p style="text-align: right;">15</p> <p>1 University.</p> <p>2 Q. Okay. Anything else?</p> <p>3 A. High school education, lots of law enforcement</p> <p>4 training.</p> <p>5 Q. Okay. And what is your employment background?</p> <p>6 A. Was with -- well, during my high school years</p> <p>7 I was dispatcher for a small rural sheriff's office in</p> <p>8 Zavala County. Then I worked for a funeral home. And</p> <p>9 I went to the highway patrol when I was -- well,</p> <p>10 actually went to academy at 20 years old. Got out of</p> <p>11 the highway patrol academy, went to highway patrol in</p> <p>12 Kerrville, and then got drafted into the Army. Spent</p> <p>13 three years in -- well, 2-1/2 years, really, in the</p> <p>14 Army criminal investigation division, assigned to</p> <p>15 Fort Meade, Maryland most of that time and Seoul,</p> <p>16 South Korea for part of that time.</p> <p>17 Then I reinstated into -- took a military</p> <p>18 leave from the department for my military service, came</p> <p>19 back into the department, highway patrol here in</p> <p>20 Austin, and promoted to highway patrol sergeant. I</p> <p>21 went to Fort Bend County and served there for about</p> <p>22 two years, when I got assigned to reorganize the</p> <p>23 governor's security detail back here in Austin. Moved</p> <p>24 back to Austin, was there for about three years.</p> <p>25 Promoted to Texas Ranger and went to Atascosa County</p>
<p style="text-align: right;">14</p> <p>1 perspective, are DL related and often personnel</p> <p>2 related.</p> <p>3 Q. And when you say "DL" you mean driver's</p> <p>4 license?</p> <p>5 A. Yes, sir. I'm sorry.</p> <p>6 Q. No, it's fine. And I'm happy to use that</p> <p>7 moving forward.</p> <p>8 A. Okay.</p> <p>9 Q. Just want to make sure we're clear on the</p> <p>10 record that "DL" means driver's license.</p> <p>11 A. Yeah.</p> <p>12 Q. And with regard to EIC communications, do they</p> <p>13 communicate to you directly regarding EIC programs as</p> <p>14 well?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And who do you report to?</p> <p>17 A. I report to the deputy director for services</p> <p>18 at the Department of Public Safety.</p> <p>19 Q. And who is that?</p> <p>20 A. Cheryl McBride.</p> <p>21 Q. How long have you been in your position?</p> <p>22 A. Ten months.</p> <p>23 Q. And what is your educational background?</p> <p>24 A. Bachelor of Science in law enforcement from --</p> <p>25 well, Southwest Texas State, now Texas State</p>	<p style="text-align: right;">16</p> <p>1 and was there for the next 18 years, until I retired in</p> <p>2 '98, September of '98.</p> <p>3 After that, I -- the -- I went to work</p> <p>4 for the Sheriff's Association of Texas under a grant</p> <p>5 from the Department of Justice to provide technology</p> <p>6 assistance to state and local law enforcement across</p> <p>7 the country, and was there for probably eight or</p> <p>8 nine years. Then the director at the Department of</p> <p>9 Public Safety called me and asked me to come back and</p> <p>10 serve as legislative liaison in 2012. And I did that</p> <p>11 for just over a year, and then took the assistant</p> <p>12 director position for driver's license.</p> <p>13 Q. Okay. So during your time working for the</p> <p>14 State prior to your current position, you had not</p> <p>15 worked in any licensing field?</p> <p>16 A. No, sir.</p> <p>17 Q. Okay. Do you understand that you're</p> <p>18 testifying on behalf of the State of Texas and not in</p> <p>19 your individual capacity?</p> <p>20 A. Yes, sir.</p> <p>21 Q. When did you first learn that you would be</p> <p>22 testifying on behalf of the State?</p> <p>23 A. December, I think. I don't remember for sure,</p> <p>24 but, you know, when -- when I got a copy of the notice</p> <p>25 that was delivered to me by OGC.</p>

JOE PETERS

4/30/2014

5 (Pages 17 to 20)

<p style="text-align: right;">17</p> <p>1 Q. And "OGC," you mean Office of General Counsel?</p> <p>2 A. Office of General Counsel at DPS, yes.</p> <p>3 Q. I'm happy to do that whenever we need. Don't</p> <p>4 worry.</p> <p>5 A. Okay.</p> <p>6 Q. Are you represented by counsel here today?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Who is representing you?</p> <p>9 A. Attorney General's Office and our Office of</p> <p>10 General Counsel.</p> <p>11 Q. So the attorneys who represent you may object.</p> <p>12 But you should answer unless he or she specifically</p> <p>13 instructs you to -- not to answer. Do you understand?</p> <p>14 A. Understood.</p> <p>15 Q. Okay.</p> <p>16 MR. FREEMAN: If the court reporter could</p> <p>17 mark this.</p> <p>18 (Exhibit No. 36 marked.)</p> <p>19 THE REPORTER: Exhibit 36.</p> <p>20 MR. BRAZIL: What number did you say this</p> <p>21 was?</p> <p>22 THE REPORTER: 36.</p> <p>23 Q. (BY MR. FREEMAN) Sir, have you seen this</p> <p>24 document before?</p> <p>25 A. Yes, I believe I have.</p>	<p style="text-align: right;">19</p> <p>1 THE WITNESS: Okay. Then --</p> <p>2 Q. (BY MR. FREEMAN) That's fine. So I guess</p> <p>3 I'll withdraw my question and I'll say, among the</p> <p>4 topics for which you have been designated, which topics</p> <p>5 are you prepared to testify about today?</p> <p>6 A. Okay. 2.</p> <p>7 MR. BRAZIL: Are we looking at the letter</p> <p>8 now on February 26th?</p> <p>9 MR. KEISTER: I think so.</p> <p>10 MR. BRAZIL: Okay. I just want to make</p> <p>11 sure we're all in front of the same thing.</p> <p>12 THE WITNESS: 5, 6, 7, 8, 9, 10, part of</p> <p>13 11, part of 12, 13, 14, 19, 20, 21, and 23, and part of</p> <p>14 24.</p> <p>15 Q. (BY MR. FREEMAN) Are there any topics for</p> <p>16 which you've been designated that you are not prepared</p> <p>17 to testify about today?</p> <p>18 A. The only -- you know, I think I'm prepared to</p> <p>19 do some testimony on all of them. But given my short</p> <p>20 experience in the driver's license division, I may not</p> <p>21 be able to give you a complete answer. But if I don't</p> <p>22 I'll tell you. It will be obvious.</p> <p>23 Q. Okay. What did you do to prepare for your</p> <p>24 deposition?</p> <p>25 A. Reviewed my predecessor's deposition from</p>
<p style="text-align: right;">18</p> <p>1 Q. And what subjects within the document are you</p> <p>2 prepared to testify about today?</p> <p>3 A. Do you want me to read the subjects or just</p> <p>4 give you the number?</p> <p>5 Q. Just the number is fine.</p> <p>6 A. Okay. I should be able to testify on 1, 2, 3,</p> <p>7 part --</p> <p>8 MR. KEISTER: Excuse me just a minute,</p> <p>9 Joe.</p> <p>10 THE WITNESS: Go ahead.</p> <p>11 MR. KEISTER: Counsel, there -- we have</p> <p>12 designated him on certain numbers and you're giving --</p> <p>13 you're going numbers that we haven't designated yet.</p> <p>14 So it may be helpful if I let him see the letter we</p> <p>15 sent you.</p> <p>16 MR. FREEMAN: That's fine.</p> <p>17 MR. KEISTER: He has knowledge about a</p> <p>18 lot that we won't be designating him on, obviously.</p> <p>19 MR. FREEMAN: Okay.</p> <p>20 MR. KEISTER: So why don't we just look</p> <p>21 through this letter.</p> <p>22 THE WITNESS: Okay.</p> <p>23 MR. KEISTER: And on the ones that your</p> <p>24 name appears, that's the one -- that's the ones we</p> <p>25 designated you on.</p>	<p style="text-align: right;">20</p> <p>1 prior litigation.</p> <p>2 Q. And was that Ms. Davio?</p> <p>3 A. Yes, it was. And I reviewed e-mails and other</p> <p>4 documentation that was provided as part of the request</p> <p>5 for production.</p> <p>6 Q. Do you recall which e-mails in particular you</p> <p>7 reviewed?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you have copies of those e-mails with you</p> <p>10 today?</p> <p>11 A. I don't have them with me, no.</p> <p>12 Q. Okay. And those were only e-mails that were</p> <p>13 previously produced in this litigation?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay. Anything else?</p> <p>16 A. No.</p> <p>17 Q. Okay. Did you meet with counsel?</p> <p>18 A. I did.</p> <p>19 Q. And when was that?</p> <p>20 A. Friday, Monday, yesterday, and at various</p> <p>21 times prior to Friday with Office of General Counsel at</p> <p>22 DPS.</p> <p>23 Q. Anyone other than Office of General Counsel at</p> <p>24 DPS?</p> <p>25 A. No.</p>

JOE PETERS

4/30/2014

6 (Pages 21 to 24)

<p style="text-align: right;">21</p> <p>1 Q. Did you speak to anyone else about your</p> <p>2 deposition?</p> <p>3 A. About the deposition specifically?</p> <p>4 Q. Yes.</p> <p>5 A. I may have -- I may have spoken to some of my</p> <p>6 staff in the process of trying to refresh my memory on</p> <p>7 some of the events.</p> <p>8 Q. Anyone in particular?</p> <p>9 A. Paul Watkins, Tony Rodriguez, Steve Bell</p> <p>10 primarily.</p> <p>11 Q. And who is Mr. Watkins?</p> <p>12 A. He's my deputy assistant director for customer</p> <p>13 operations.</p> <p>14 Q. And who is Mr. Rodriguez?</p> <p>15 A. He's the senior manager for customer</p> <p>16 operations, responsible for the south and western</p> <p>17 portions of the state.</p> <p>18 Q. And so does Mr. Rodriguez report to</p> <p>19 Mr. Watkins?</p> <p>20 A. Yes, he does.</p> <p>21 Q. And who is Mr. Bell?</p> <p>22 A. Mr. Bell is the senior manager for the north</p> <p>23 and east portions of the state for customer operations.</p> <p>24 Q. And does Mr. Bell report to Mr. Watkins?</p> <p>25 A. Yes, he does.</p>	<p style="text-align: right;">23</p> <p>1 MR. BRAZIL: Let him finish his question</p> <p>2 first before you answer because at the end of this depo</p> <p>3 she's going to be tired.</p> <p>4 THE WITNESS: Okay.</p> <p>5 MR. BRAZIL: She's trying to keep up. So</p> <p>6 give him a second to finish.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MR. KEISTER: Yeah, let him pause and</p> <p>9 then --</p> <p>10 THE WITNESS: Okay.</p> <p>11 Q. (BY MR. FREEMAN) So, Mr. Peters, you've been</p> <p>12 deposed previously. When did that happen?</p> <p>13 A. It was before I retired from DPS. Probably</p> <p>14 1997.</p> <p>15 Q. And what was that matter?</p> <p>16 A. It was a civil matter.</p> <p>17 Q. What did it relate to?</p> <p>18 A. A banker had intimate knowledge of a -- of an</p> <p>19 elderly rancher who was mentally challenged that owned</p> <p>20 a little over 1,000 acres of property in Atascosa</p> <p>21 County. And the rancher disappeared one day, no one in</p> <p>22 the community knew where he was, where he went, and</p> <p>23 there was concern that he had met an untimely death.</p> <p>24 And I was -- as the ranger, I was asked by the</p> <p>25 sheriff's office to assist in investigating his</p>
<p style="text-align: right;">22</p> <p>1 Q. And are Mr. Rodriguez and Mr. Bell the only</p> <p>2 individuals at their level? Do they encompass the</p> <p>3 entirety of the state between the two of them?</p> <p>4 A. Well, between -- for customer operations with</p> <p>5 respect to driver's license offices and customer</p> <p>6 service representatives, yes.</p> <p>7 Q. Okay.</p> <p>8 A. There are -- there's another senior manager in</p> <p>9 our -- well, there are other senior managers on the</p> <p>10 other side of the division. But within -- within</p> <p>11 customer operations our business improvement or</p> <p>12 business intelligence center is headed by a senior</p> <p>13 manager. But there are no customer service</p> <p>14 representatives that -- that he deals with or that</p> <p>15 answer to him directly.</p> <p>16 Q. And was anyone else present besides those</p> <p>17 three individuals when you spoke with them about your</p> <p>18 deposition?</p> <p>19 A. There may have been. I don't recall. Because</p> <p>20 I spoke to them at various times.</p> <p>21 Q. If there had been, would those have only been</p> <p>22 individuals from DPS or would --</p> <p>23 A. Yes. Yes.</p> <p>24 Q. Okay. Thank you.</p> <p>25 So you said that you had been --</p>	<p style="text-align: right;">24</p> <p>1 disappearance.</p> <p>2 We ultimately found out that the banker</p> <p>3 had arranged for a one-way flight for him to New York,</p> <p>4 and we found him in New York finally. And the</p> <p>5 family -- and then determined that the banker had</p> <p>6 purchased that 1,000 acres of property for \$100 an acre</p> <p>7 back when it was probably worth closer to \$1,000 an</p> <p>8 acre.</p> <p>9 The old man's family sued the banker, and</p> <p>10 I was called and deposed on -- with respect to the</p> <p>11 civil suit that the family filed against the bank --</p> <p>12 the banker.</p> <p>13 Q. And was that the only matter in which you've</p> <p>14 been deposed?</p> <p>15 A. I've been deposed in civil actions as a result</p> <p>16 of motor vehicle traffic accidents while I was in the</p> <p>17 highway patrol. And I don't remember the specifics of</p> <p>18 those. That was long ago.</p> <p>19 Q. And in those matters you were deposed as a</p> <p>20 witness?</p> <p>21 A. Yes.</p> <p>22 Q. And not -- not in any matter in which the</p> <p>23 State of Texas was a party, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Did you ever testify in court?</p>

JOE PETERS

4/30/2014

7 (Pages 25 to 28)

<p style="text-align: right;">25</p> <p>1 A. Yes, I did.</p> <p>2 Q. And was that in the banker matter or the</p> <p>3 traffic matters?</p> <p>4 A. In -- in traffic matters. And I have -- are</p> <p>5 you talking about with respect to those matters</p> <p>6 specifically or any of the criminal cases that I've</p> <p>7 testified in?</p> <p>8 Q. That's a separate --</p> <p>9 A. Okay.</p> <p>10 Q. That's a separate question.</p> <p>11 A. That's why I asked the question.</p> <p>12 Q. I mean civil matters. Thank you for -- and</p> <p>13 that's clarification. Thank you so much.</p> <p>14 A. Civil matters, yes, I have testified.</p> <p>15 Q. Okay. And was that in the banker matter?</p> <p>16 A. No.</p> <p>17 Q. Was that in the traffic matters?</p> <p>18 A. That was traffic matters.</p> <p>19 Q. Have you testified in court in any criminal</p> <p>20 matters?</p> <p>21 A. Yes, I have.</p> <p>22 Q. And was that in your capacity as a -- as a</p> <p>23 Texas Ranger?</p> <p>24 A. And as a highway patrolman.</p> <p>25 Q. Okay. Have you ever personally been a party</p>	<p style="text-align: right;">27</p> <p>1 for purposes of this deposition?</p> <p>2 A. I will.</p> <p>3 Q. Are you familiar with the term "election</p> <p>4 identification certificate"?</p> <p>5 A. I am.</p> <p>6 Q. What is an election identification</p> <p>7 certificate?</p> <p>8 A. That's the -- the actual card or the document</p> <p>9 that was required by the provisions of Senate Bill 14.</p> <p>10 It contains a photo of the -- of the holder and a</p> <p>11 certificate number. What else?</p> <p>12 Q. Are there -- what are the other --</p> <p>13 A. There's not much else on it. I'm sorry?</p> <p>14 Q. What other -- what besides a photo and a</p> <p>15 document number is on the card?</p> <p>16 A. I think the words "Election Identification</p> <p>17 Certificate" are on the card. I don't recall any of</p> <p>18 the -- anything else. But there's not a whole lot of</p> <p>19 information on it.</p> <p>20 Q. Is the voter's name on the card?</p> <p>21 A. Yes.</p> <p>22 Q. Is the voter's address on the card?</p> <p>23 A. No.</p> <p>24 Q. Is the voter's date of birth on the card?</p> <p>25 A. I believe it is, yes.</p>
<p style="text-align: right;">26</p> <p>1 to a lawsuit?</p> <p>2 A. No.</p> <p>3 Q. In any of those criminal matters did a court</p> <p>4 ever find your testimony specifically not to be</p> <p>5 credible?</p> <p>6 A. No, sir.</p> <p>7 Q. Are you familiar with Senate Bill 14 from the</p> <p>8 2011 regular session?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What is your understanding of Senate Bill 14</p> <p>11 from 2011 regular session?</p> <p>12 A. Basically it established a photo -- voter</p> <p>13 photo identification requirement in Texas.</p> <p>14 Q. Anything else?</p> <p>15 A. And that DPS was directed to provide those</p> <p>16 photo identifications for prospective voters in Texas</p> <p>17 who might not otherwise have a photo ID as required by</p> <p>18 the law.</p> <p>19 Q. And is that only to vote in person or absentee</p> <p>20 as well?</p> <p>21 A. In person.</p> <p>22 Q. Have you ever actually read Senate Bill 14?</p> <p>23 A. I have.</p> <p>24 Q. If I refer to Senate Bill 14 from the 2011</p> <p>25 regular session as "S.B. 14," will you understand that</p>	<p style="text-align: right;">28</p> <p>1 Q. Is there an expiration on the card?</p> <p>2 A. Yes, unless you're over 60 years old, and then</p> <p>3 those don't expire.</p> <p>4 Q. And that's at the age at the date of issuance?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. If I refer to an election</p> <p>7 identification certificate as an "EIC," will you</p> <p>8 understand that for purposes of this deposition?</p> <p>9 A. I will.</p> <p>10 Q. And, to your knowledge -- sorry. To look</p> <p>11 back, there -- to your knowledge, there's nothing else</p> <p>12 on the card besides those categories of information</p> <p>13 that we just discussed?</p> <p>14 A. I don't recall anything else.</p> <p>15 Q. Okay.</p> <p>16 (Exhibit No. 37 marked.)</p> <p>17 THE REPORTER: Exhibit 37.</p> <p>18 Q. (BY MR. FREEMAN) Sir, what is this document?</p> <p>19 Just to speed things up, is this a copy of S.B.14 that</p> <p>20 we discussed previously?</p> <p>21 A. Yeah, it does appear to be a copy of Senate</p> <p>22 Bill 14.</p> <p>23 Q. And you said that you had read this bill</p> <p>24 before?</p> <p>25 A. Yes, I did.</p>

JOE PETERS

4/30/2014

8 (Pages 29 to 32)

<p style="text-align: right;">29</p> <p>1 Q. Were you the legislative liaison for DPS at</p> <p>2 the time that this was passed?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Could you turn to Page 13 and take a</p> <p>5 look at Section 20?</p> <p>6 A. I'm there.</p> <p>7 Q. What is your best understanding of an</p> <p>8 election -- of the requirements of an election</p> <p>9 identification certificate based on your reading of</p> <p>10 Exhibit 37?</p> <p>11 MR. KEISTER: Objection, vague.</p> <p>12 Q. (BY MR. FREEMAN) You may answer.</p> <p>13 MR. KEISTER: You can answer.</p> <p>14 THE WITNESS: The Section 521A.001 says,</p> <p>15 "The department shall issue an election identification</p> <p>16 certificate to a person who states that the person is</p> <p>17 obtaining the certificate for the purposes of</p> <p>18 satisfying Section 63.001(b) of the election code and</p> <p>19 that person does not have another form of</p> <p>20 identification described by 63.0101 of the election</p> <p>21 code."</p> <p>22 Q. And that's -- that's the text of</p> <p>23 Section 521A.001, Sub (a)?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. If you'll look at Section 20,</p>	<p style="text-align: right;">31</p> <p>1 identification?</p> <p>2 A. No, sir.</p> <p>3 Q. It only establishes that the department may</p> <p>4 require certain forms?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And, to your knowledge, what information or</p> <p>7 data may the Department of Public Safety require an</p> <p>8 individual to provide?</p> <p>9 A. If you're talking about what 521.142 says</p> <p>10 specifically, I don't recall specifically the</p> <p>11 information that it requires. But, you know, we do</p> <p>12 require certain forms of identification.</p> <p>13 Q. And is it a matter of the department's</p> <p>14 discretion, then, to determine what an individual must</p> <p>15 require?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are you familiar with the regulations that the</p> <p>18 Department of Public Safety has promulgated in order to</p> <p>19 implement Section 521A.001(f) of the Texas</p> <p>20 Transportation Code?</p> <p>21 A. Are you referring to the administrative rule?</p> <p>22 Q. Is -- are -- is the administrative rules -- is</p> <p>23 that the term that you use to refer to regulations?</p> <p>24 A. Yes.</p> <p>25 Q. Then, yes.</p>
<p style="text-align: right;">30</p> <p>1 Subsection (f)?</p> <p>2 A. F as in Frank?</p> <p>3 Q. F as in Frank. What is your understanding of</p> <p>4 that provision?</p> <p>5 A. The -- the text says, "The department may</p> <p>6 require each applicant for an original or renewal</p> <p>7 election identification certificate to furnish to the</p> <p>8 department the information required by Section 521.142.</p> <p>9 Q. And that's Section 521.142 of the</p> <p>10 transportation code?</p> <p>11 A. Correct.</p> <p>12 Q. Does the statute require an applicant for an</p> <p>13 EIC to provide any particular information or data?</p> <p>14 A. Specific information?</p> <p>15 Q. Yes.</p> <p>16 MR. KEISTER: Objection, calls for a</p> <p>17 legal conclusion.</p> <p>18 But you can answer.</p> <p>19 THE WITNESS: I'm not certain exactly</p> <p>20 what 521 requires, whether it specifies a particular</p> <p>21 document. I believe -- I believe it doesn't, but I</p> <p>22 want to qualify the answer.</p> <p>23 Q. (BY MR. FREEMAN) I guess if I can refine my</p> <p>24 question. Does Subsection (f) require -- state that</p> <p>25 the department must require particular forms of</p>	<p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 (Exhibit No. 38 marked.)</p> <p>3 THE REPORTER: Exhibit 38.</p> <p>4 Q. (BY MR. FREEMAN) What is this document?</p> <p>5 A. This appears to be a copy of the Texas</p> <p>6 Administrative Code, Title 37, Part 1, Chapter 15.</p> <p>7 Q. Is this the complete set of regulations that</p> <p>8 DPS has promulgated to implement its election</p> <p>9 identification certificate program?</p> <p>10 A. I believe it is.</p> <p>11 Q. When were these promulgated?</p> <p>12 A. 2011.</p> <p>13 Q. Do you know more specifically?</p> <p>14 A. No, but I think it was in December.</p> <p>15 Q. Who drafted these regulations?</p> <p>16 A. This was before my time, but I'm advised by</p> <p>17 staff that it was a collaboration, and I think probably</p> <p>18 Janie Smith was the primary drafter, with the</p> <p>19 assistance and guidance from the Office of General</p> <p>20 Counsel.</p> <p>21 Q. And who is Janie Smith?</p> <p>22 A. She is in our policy and business improvement</p> <p>23 section of the customer support division.</p> <p>24 Q. Okay. And that collaborative process, could</p> <p>25 you explain the nature of that process?</p>

JOE PETERS

4/30/2014

9 (Pages 33 to 36)

<p style="text-align: right;">33</p> <p>1 A. Not for this. I wasn't there.</p> <p>2 Q. What is the general type of process that is</p> <p>3 used to develop regulations in areas under your</p> <p>4 supervision?</p> <p>5 A. The policy and business improvement staff</p> <p>6 identifies the -- the need for those rules and the</p> <p>7 language that needs to be in those rules for DPS to</p> <p>8 accomplish whatever it is we're trying to accomplish.</p> <p>9 And the policy and business improvement staff will --</p> <p>10 will develop a draft with -- in consultation with the</p> <p>11 Office of General Counsel to be sure that we've covered</p> <p>12 everything in statute that we're required to</p> <p>13 accomplish.</p> <p>14 Q. And who is required to approve those</p> <p>15 regulations once they've been drafted?</p> <p>16 A. Ultimately for the division?</p> <p>17 MR. KEISTER: You've got to slow down,</p> <p>18 let him pause.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Would you restate your question?</p> <p>21 Q. (BY MR. FREEMAN) Who is ultimately -- who has</p> <p>22 to approve those regulations before they're finalized?</p> <p>23 A. Ultimately, I sign off on those.</p> <p>24 Q. Anyone above you?</p> <p>25 A. Well, let me back up. I sign off on those and</p>	<p style="text-align: right;">35</p> <p>1 at that point.</p> <p>2 Q. But if they are a registered voter, but do not</p> <p>3 have a copy of their voter registration card because</p> <p>4 they have lost it, how would they apply?</p> <p>5 A. They just attest that they are a registered</p> <p>6 voter.</p> <p>7 Q. And so an applicant who is a registered voter,</p> <p>8 in fact, does not have to present their voter</p> <p>9 registration card?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. Is it possible for the Department of</p> <p>12 Public Safety to query the Secretary of State's office</p> <p>13 to verify whether an individual is a registered voter?</p> <p>14 A. We -- I don't think we have direct connection</p> <p>15 with the Secretary of State to develop -- I mean, to</p> <p>16 determine whether or not a voter is registered. They</p> <p>17 sign the affidavit on the application form ensuring or</p> <p>18 saying that they are, and we take that. And from there</p> <p>19 it's out of our hands.</p> <p>20 Q. So there's no current process to do that?</p> <p>21 A. Not that I'm aware of.</p> <p>22 Q. Is there any technical impediment to doing</p> <p>23 that?</p> <p>24 A. Well, there is a technical impediment in that</p> <p>25 we don't have connectivity to the voter -- direct</p>
<p style="text-align: right;">34</p> <p>1 the Public Safety Commission has to approve final</p> <p>2 adoption of them once I've signed off on them.</p> <p>3 Q. And that -- the Public Safety Commission is a</p> <p>4 separate supervisory body that oversees the Department</p> <p>5 of Public Safety?</p> <p>6 A. Correct.</p> <p>7 Q. If you could please take a look at</p> <p>8 Section 15.181(c)(1)?</p> <p>9 A. C, as in Charles, 1?</p> <p>10 Q. C, as in Charles, 1.</p> <p>11 A. Okay.</p> <p>12 Q. Does this section require an applicant who is</p> <p>13 already a registered voter to present a voter</p> <p>14 registration card issued to that individual when</p> <p>15 applying for an election identification certificate?</p> <p>16 A. That's what the rule says.</p> <p>17 Q. If the registered voter has lost their card,</p> <p>18 are they unable to apply for an election identification</p> <p>19 certificate?</p> <p>20 A. No, they would still be able to apply for an</p> <p>21 election identification certificate.</p> <p>22 Q. How would they do that?</p> <p>23 A. They would specify on their application that</p> <p>24 they are a registered voter. If they're not a</p> <p>25 registered voter, they can apply for voter registration</p>	<p style="text-align: right;">36</p> <p>1 connectively to a voter registration file.</p> <p>2 Q. Could they call someone at the Secretary of</p> <p>3 State's office?</p> <p>4 A. I suppose they could.</p> <p>5 Q. Is there any legal impediment to doing that to</p> <p>6 your knowledge?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Could you please take a look at Section</p> <p>9 15.181(d)?</p> <p>10 A. B, as in boy?</p> <p>11 Q. D, as in --</p> <p>12 A. Oh, D, as in David?</p> <p>13 Q. -- as in David.</p> <p>14 A. Okay.</p> <p>15 Q. The term has been -- so -- sorry. Strike</p> <p>16 that.</p> <p>17 This provision bars an individual who has</p> <p>18 been issued certain documents that would be sufficient</p> <p>19 to cast an in-person ballot under S.B. 14 from</p> <p>20 obtaining an EIC, correct?</p> <p>21 A. Would you state your question again? I'm not</p> <p>22 sure I followed it.</p> <p>23 Q. Sure. This provision bars an individual who,</p> <p>24 quote, has been issued, close quote, a set of documents</p> <p>25 that are sufficient to cast an in-person ballot under</p>

JOE PETERS

4/30/2014

10 (Pages 37 to 40)

<p style="text-align: right;">37</p> <p>1 S.B. 14 from obtaining an EIC from DPS, correct?</p> <p>2 A. Yes.</p> <p>3 Q. What if that document has been lost or stolen?</p> <p>4 A. If the document has been lost or stolen,</p> <p>5 assuming that it's a driver's license or an ID card</p> <p>6 that was issued by DPS, we can determine whether or not</p> <p>7 they still have a valid card or still have a valid</p> <p>8 license, and we would issue the -- we would not issue</p> <p>9 the election identification certificate.</p> <p>10 Q. Is there a fee for an individual who has</p> <p>11 DPS-issued ID, but has lost that ID to obtain a new</p> <p>12 copy?</p> <p>13 A. Yes.</p> <p>14 Q. How does your office verify that an individual</p> <p>15 has been issued one of those sets of documents?</p> <p>16 A. We would query the driver's license system,</p> <p>17 the driver's license database, and determine whether or</p> <p>18 not there's a valid card or a valid issuance.</p> <p>19 Q. The driver's license database addresses both</p> <p>20 driver's licenses and Texas personal identification</p> <p>21 cards?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Does -- would -- strike that.</p> <p>24 Does the department verify the license to</p> <p>25 carry database?</p>	<p style="text-align: right;">39</p> <p>1 license or an ID card that has expired no earlier than</p> <p>2 that 60 days, then we would not issue them an EIC.</p> <p>3 Q. So if an individual comes in seeking an EIC a</p> <p>4 month before an election --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- their ID has been expired for 45 days --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- you will not issue them an EIC at that</p> <p>9 time, correct?</p> <p>10 A. Correct.</p> <p>11 Q. They would need to come back closer to the</p> <p>12 election, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And if the individual's license expires</p> <p>15 the day before the election -- excuse me -- would be</p> <p>16 60 days expired the day before the election, they would</p> <p>17 not have to come back on that day, correct?</p> <p>18 A. I'm not sure I understand your question. But</p> <p>19 if you're saying that if their -- if their license</p> <p>20 expired the day before the election and they came in --</p> <p>21 Q. No. If their license was 60 days expired. So</p> <p>22 it would no longer --</p> <p>23 A. If it was already 60 days expired?</p> <p>24 Q. 59 days the day before the election, you would</p> <p>25 not issue them the EIC the day before the election even</p>
<p style="text-align: right;">38</p> <p>1 A. No, sir.</p> <p>2 Q. Does it check against any other forms of</p> <p>3 identification set out in this regulation?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Is it correct that an individual whose</p> <p>6 identification will be expired by 60 days or more on</p> <p>7 the date of an upcoming election but whose ID is not</p> <p>8 expired by 60 days on the date of the application</p> <p>9 cannot apply for an EIC?</p> <p>10 A. They would -- they could apply.</p> <p>11 Q. They could apply --</p> <p>12 A. If --</p> <p>13 Q. -- notwithstanding the fact that their</p> <p>14 identification is not expired by 60 days or more on the</p> <p>15 date that they are applying?</p> <p>16 A. They could apply.</p> <p>17 Q. And so the -- the actual rule for DPS is not</p> <p>18 that the person has not been issued a driver's license</p> <p>19 that expired no earlier than 60 days before the date of</p> <p>20 the application, correct? That's not the rule?</p> <p>21 A. That is the rule.</p> <p>22 Q. So the rule is that an individual's driver's</p> <p>23 license has to be expired by 60 days or more on the</p> <p>24 date that they apply for an EIC, correct?</p> <p>25 A. The rule is that if they have a driver's</p>	<p style="text-align: right;">40</p> <p>1 though the election was the next day and the license</p> <p>2 would not be sufficient to vote under S.B. 14 on the</p> <p>3 election day, correct?</p> <p>4 A. Well, yeah, that would be correct.</p> <p>5 Q. Okay. Please look at Section 15.182. Am I</p> <p>6 correct that this says that all documents that are used</p> <p>7 to prove eligibility must be verifiable?</p> <p>8 A. You are correct.</p> <p>9 Q. What does verifiable mean?</p> <p>10 A. That means that if they use -- I don't know --</p> <p>11 proof of residence, a -- if they bring a passport in,</p> <p>12 for example, if they have a passport, we're not going</p> <p>13 to issue the EIC. I can't think off the top of my head</p> <p>14 what all we're talking about now. There's -- you know,</p> <p>15 you should have a list of the acceptable documents for</p> <p>16 identification, and if you have that I would be glad to</p> <p>17 look at it.</p> <p>18 Q. Well, in fact, this regulation does provide</p> <p>19 the list of acceptable documents.</p> <p>20 A. Yes.</p> <p>21 Q. And I guess maybe an easier way to ask the</p> <p>22 question is, what documents are not verifiable?</p> <p>23 A. I don't have the answer.</p> <p>24 Q. Are there any documents on this list in</p> <p>25 Section 15.182 that are -- that exist in any form that</p>

JOE PETERS

4/30/2014

11 (Pages 41 to 44)

<p style="text-align: right;">41</p> <p>1 the department would deem not verifiable?</p> <p>2 A. Okay. The Texas driver license would be</p> <p>3 verifiable. The personal identification card issued by</p> <p>4 the department would be verifiable. And then the</p> <p>5 secondary identification, a certified copy of a birth</p> <p>6 certificate would ultimately be verifiable. Not that</p> <p>7 it would be verifiable at the time of application by</p> <p>8 our customer service representative, but it would be</p> <p>9 verifiable.</p> <p>10 Original certified copy of the department</p> <p>11 of state certification at birth, we would not be able</p> <p>12 to verify on the spot. Original or certified copy of a</p> <p>13 court order with the name and date of birth indicating</p> <p>14 an official change of name would not verifiable on the</p> <p>15 spot, but would ultimately be verifiable.</p> <p>16 Q. Are there any that are listed here, that are</p> <p>17 listed in Section 15.182(4), the supporting</p> <p>18 identification, are there any of those documents that</p> <p>19 are potentially not verifiable?</p> <p>20 A. I believe all of those would be ultimately</p> <p>21 verifiable.</p> <p>22 Q. Okay. So the provision that all documents</p> <p>23 must be verifiable, that doesn't actually limit the use</p> <p>24 of any of these categories of documents listed later in</p> <p>25 the regulation; is that correct?</p>	<p style="text-align: right;">43</p> <p>1 issuing driver licenses and ID cards as a matter of</p> <p>2 business daily, that the election identification, or</p> <p>3 EIC, certificate issuance was as similar as possible.</p> <p>4 Q. So --</p> <p>5 A. So they would be looking for basically the</p> <p>6 same -- I'm sorry. They would be looking for the same</p> <p>7 documents for an EIC, the same documentation for an</p> <p>8 EIC, although the data entry screen for an EIC is</p> <p>9 separate and distinct from that of a driver license or</p> <p>10 an ID card application.</p> <p>11 Q. So the purpose of modeling this list of</p> <p>12 required documents was to reduce the administrative</p> <p>13 burden on CSRs?</p> <p>14 A. Reduce the administrative burden and reduce</p> <p>15 the chance for error.</p> <p>16 Q. And also to reduce the burden on perhaps the</p> <p>17 programmers who put together the interface for the</p> <p>18 CSRs?</p> <p>19 A. Possibly, yes, sir.</p> <p>20 Q. But not necessarily to reduce the burden on</p> <p>21 individuals who are applying for an EIC?</p> <p>22 A. Correct. My understanding was that the</p> <p>23 thinking was if -- if individuals were accustomed to</p> <p>24 what they had to have for -- for driver's license or</p> <p>25 ID card issuance and knew that the same was applicable</p>
<p style="text-align: right;">42</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. How was this list of documents created,</p> <p>3 the documents required for obtaining an EIC?</p> <p>4 A. I don't know that.</p> <p>5 Q. Does it appear to be modeled on any other</p> <p>6 provision set out by DPS?</p> <p>7 A. It does.</p> <p>8 Q. And what provision is that?</p> <p>9 A. That would be the requirements for driver</p> <p>10 license identification and ID card identification.</p> <p>11 Q. And what was the basis for using the driver's</p> <p>12 license or personal identification card requirements as</p> <p>13 the requirements for an election identification</p> <p>14 certificate?</p> <p>15 A. Continuity of the process. The customer</p> <p>16 service representatives, which if I can, I would refer</p> <p>17 to them as "CSRs" going forward, if that's all right.</p> <p>18 Q. Okay.</p> <p>19 A. The CSRs are accustomed to the requirement for</p> <p>20 a driver license and for ID card. And the process for</p> <p>21 entering data and issuing the driver's license and ID</p> <p>22 card, my understanding from staff discussions, was that</p> <p>23 thinking back in 2011 when they started putting the EIC</p> <p>24 process together that there would be less chance for</p> <p>25 error if the customer service representative that was</p>	<p style="text-align: right;">44</p> <p>1 to the EIC, there would be less confusion on the part</p> <p>2 of the applicant for an EIC.</p> <p>3 Q. And if -- by "individuals" you mean CSRs,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. Not applicants?</p> <p>7 A. Well, no, I'm talking about applicants.</p> <p>8 Q. But applicants for EICs are individuals who</p> <p>9 are not accustomed to holding --</p> <p>10 A. That's correct. That's correct.</p> <p>11 Q. Thank you. If you could look at</p> <p>12 Section 15.182(2), "Primary Identification."</p> <p>13 A. Uh-huh.</p> <p>14 Q. Am I correct that the only form of primary</p> <p>15 identification that is independently sufficient to</p> <p>16 establish EIC eligibility is a driver's license or ID</p> <p>17 card that is expired for more than 60 days, but less</p> <p>18 than two years?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Why was this time period selected?</p> <p>21 A. I don't know.</p> <p>22 Q. What is this time period based on?</p> <p>23 A. The -- the driver license rule.</p> <p>24 Q. And the -- what is the driver license rule?</p> <p>25 A. That if you come in with an expired driver's</p>

JOE PETERS

4/30/2014

12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 license you can -- that's been expired for 60 days, but</p> <p>2 less than two years, you can apply for re-issuance</p> <p>3 without testing. If it exceeds two years, then you</p> <p>4 have to go through retest.</p> <p>5 Q. By "retest" you mean test your driving</p> <p>6 ability?</p> <p>7 A. Correct.</p> <p>8 Q. Does a driver's license that has expired for</p> <p>9 less than two years establish identity?</p> <p>10 A. In most cases, yes. It depends on when that</p> <p>11 driver's license was initially issued. If under the</p> <p>12 Real ID Act -- Texas is not fully compliant yet with</p> <p>13 Real ID, but we're working toward that, and we require</p> <p>14 lawful presence verification now. And some of the</p> <p>15 older licensees may not have had lawful presence</p> <p>16 established, and the -- the system will say</p> <p>17 "citizenship not verified." So then we would require</p> <p>18 them to prove lawful presence.</p> <p>19 Q. But in terms of identity, in terms of proving</p> <p>20 that a person is who they say they are, does a driver's</p> <p>21 license that is expired for two years establish</p> <p>22 identity?</p> <p>23 A. Less than two years?</p> <p>24 Q. Yes.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">47</p> <p>1 Q. Okay. Are there any computerized checks of</p> <p>2 citizenship that are made?</p> <p>3 A. Yes.</p> <p>4 Q. What type of computerized checks are made?</p> <p>5 A. We use the -- a federal database. The</p> <p>6 systematic -- well, one of them is the systematic alien</p> <p>7 verification for entitlements to establish lawful</p> <p>8 presence if the individual is not a citizen.</p> <p>9 Q. If --</p> <p>10 A. And then we rely on -- I'm sorry. Go ahead.</p> <p>11 Q. Is that computerized check conducted for every</p> <p>12 individual who applies for an EIC?</p> <p>13 A. Yes, I believe that's -- that's actually done</p> <p>14 in the -- well, I better not answer that one that way</p> <p>15 because I'm not real sure. I'm thinking of the quality</p> <p>16 assurance process that we go through once an EIC is</p> <p>17 issued. Our -- we have a -- our license and records</p> <p>18 service is doing quality assurance on every EIC that's</p> <p>19 issued.</p> <p>20 Once they -- once the card -- or once the</p> <p>21 application hits the database, then EIC staff -- I</p> <p>22 mean, the -- the license of records, or LRS staff,</p> <p>23 looks at every application in the database to be sure</p> <p>24 that all the documentation that's required to prove</p> <p>25 citizenship and birth and so forth is in the database.</p>
<p style="text-align: right;">46</p> <p>1 Q. Does it establish citizenship?</p> <p>2 A. Not necessarily.</p> <p>3 Q. Is it, nonetheless, sufficient to obtain an</p> <p>4 EIC if you have a driver's license that is expired by</p> <p>5 less than two years?</p> <p>6 A. Less, yes.</p> <p>7 Q. Are you certain that DPS offices are not</p> <p>8 requiring additional proof of citizenship from</p> <p>9 individuals who present driver's licenses that are</p> <p>10 expired for less than two years and attempt to obtain</p> <p>11 an EIC?</p> <p>12 A. I can't say that I'm certain, because with</p> <p>13 over 2,000 employees out there, some of them may</p> <p>14 inadvertently require more than -- or ask for more than</p> <p>15 what we actually require.</p> <p>16 Q. Are you taking any efforts to audit or</p> <p>17 supervise this process?</p> <p>18 A. Yes, we are.</p> <p>19 Q. And have you been made aware of any instances</p> <p>20 in which CSRs have asked for additional proof of</p> <p>21 citizenship?</p> <p>22 A. Beyond what is required here?</p> <p>23 Q. Yes.</p> <p>24 A. I'm not aware of any. That's not to say that</p> <p>25 they haven't occurred.</p>	<p style="text-align: right;">48</p> <p>1 Q. Is -- is that the same level of scrutiny</p> <p>2 provided to driver's licenses and identification cards?</p> <p>3 A. Yes, but on -- usually on a local level in a</p> <p>4 spot check.</p> <p>5 Q. So it's an audit for driver's licenses and</p> <p>6 identification cards, but it's a check for every EIC;</p> <p>7 is that correct?</p> <p>8 A. Yeah. And when -- when we're talking about</p> <p>9 the audit for driver licenses, we process 7 million</p> <p>10 applications a year, and it's next to impossible to --</p> <p>11 to individually scrutinize each one of those</p> <p>12 transactions. But because we're going to -- with</p> <p>13 respect to the issuance of EICs, we're going to err on</p> <p>14 the side of issuance. And there may be cases -- there</p> <p>15 have been cases where an individual came in and applied</p> <p>16 for an EIC and during the quality assurance process we</p> <p>17 found out that they were not eligible most of the time</p> <p>18 because they had a passport or they -- they had a valid</p> <p>19 Texas ID card, various other reasons.</p> <p>20 Q. And how are you verifying that an</p> <p>21 individual -- or determining that an individual has a</p> <p>22 passport?</p> <p>23 A. In most cases they -- they tell us they have a</p> <p>24 passport, and for whatever reason it -- it gets past</p> <p>25 the CSR.</p>

JOE PETERS

4/30/2014

13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1 Q. So that's on the application, correct?</p> <p>2 A. Yes, uh-huh.</p> <p>3 Q. Okay. And in terms of the computerized</p> <p>4 checks, while those are being run against federal</p> <p>5 databases like SAVE, an individual is issued a</p> <p>6 temporary EIC that they can use, correct?</p> <p>7 A. Correct. Correct.</p> <p>8 Q. Okay. What is the security benefit to the</p> <p>9 election process of requiring an individual who has a</p> <p>10 driver's license that has been expired for 61 days to</p> <p>11 go to DPS and obtain an EIC rather than using their</p> <p>12 driver's license?</p> <p>13 A. I'm not sure that there's an additional</p> <p>14 benefit except that if they get the EIC, the data is</p> <p>15 more current, the photo is more current. Generally</p> <p>16 with a driver license the picture can be as old as</p> <p>17 12 years.</p> <p>18 Q. But if an individual had not -- had a new</p> <p>19 driver's license, not a renewed driver's license that</p> <p>20 expired --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- by 61 days, that could be a newer photo</p> <p>23 than someone who has a driver's license that's about to</p> <p>24 expire, but that had renewed that driver's license once</p> <p>25 without getting a new photograph, correct?</p>	<p style="text-align: right;">51</p> <p>1 Q. But it's your testimony that that expired</p> <p>2 driver's license does not establish the individual's</p> <p>3 identity?</p> <p>4 A. No, sir -- or, yes, sir, that's true.</p> <p>5 Q. Can expired driver's licenses or</p> <p>6 identification cards be used for any other purpose?</p> <p>7 A. I'm not aware of what else they could be used</p> <p>8 for.</p> <p>9 Q. If you could take a look at Section 15.182(3),</p> <p>10 which is the secondary identification, what is the</p> <p>11 purpose of requiring this set of documents?</p> <p>12 A. To help determine identity that the applicant</p> <p>13 is who they say they are.</p> <p>14 Q. Only identity?</p> <p>15 A. It could be citizenship if -- in the case of</p> <p>16 birth certificates, it could be name change, could be</p> <p>17 citizenship in terms of naturalization documents.</p> <p>18 Q. How do the secondary identification documents</p> <p>19 differ from the supporting identification documents?</p> <p>20 A. Well, in my mind, the secondary identification</p> <p>21 document is a more secure or more sure form of</p> <p>22 identification than the supporting identification</p> <p>23 documents would be.</p> <p>24 Q. Isn't it the case that these all establish</p> <p>25 citizenship?</p>
<p style="text-align: right;">50</p> <p>1 A. Yes.</p> <p>2 Q. Does a driver's license or identification card</p> <p>3 that's expired by more than two years establish an</p> <p>4 individual's identity?</p> <p>5 A. No.</p> <p>6 Q. Isn't it correct that a driver's license that</p> <p>7 has expired by more than two years can be used as</p> <p>8 supporting identification to obtain an EIC?</p> <p>9 A. As supporting identification.</p> <p>10 Q. And for that purpose does it establish an</p> <p>11 individual's identity?</p> <p>12 A. Not in itself, I wouldn't think. Not by</p> <p>13 itself.</p> <p>14 Q. Can an expired Texas driver's license, along</p> <p>15 with a non -- a form of non-photographic</p> <p>16 identification, such as a birth certificate, be used to</p> <p>17 obtain an EIC with no other photographic</p> <p>18 identification?</p> <p>19 A. Say that again now. I'm sorry.</p> <p>20 Q. Can an expired Texas driver's license by more</p> <p>21 than two years be used along with a non-photographic</p> <p>22 document, such as birth certificate, to obtain an EIC?</p> <p>23 A. That can be -- that -- that expired driver's</p> <p>24 license could be used as a form of supporting</p> <p>25 identification.</p>	<p style="text-align: right;">52</p> <p>1 A. Yes.</p> <p>2 Q. Okay. But, of course, an individual can</p> <p>3 obtain an EIC without proof of citizenship if they</p> <p>4 provide a Texas driver's license that's been expired</p> <p>5 for less than two years, correct?</p> <p>6 A. Yes, sir. Yes, sir.</p> <p>7 Q. Is it necessary to provide documentary proof</p> <p>8 of citizenship in Texas in order to register to vote?</p> <p>9 A. Provide proof of citizenship in order to</p> <p>10 register to vote?</p> <p>11 Q. Documentary proof of citizenship.</p> <p>12 A. I'm not aware that it is.</p> <p>13 Q. It is necessary to obtain -- or to provide</p> <p>14 documentary proof of citizenship in order to obtain a</p> <p>15 driver's license or an identification card in Texas?</p> <p>16 A. Yes.</p> <p>17 Q. Proof of citizenship --</p> <p>18 A. Yes.</p> <p>19 Q. -- or lawful presence?</p> <p>20 A. Well, lawful presence.</p> <p>21 Q. So a noncitizen --</p> <p>22 A. So a noncitizen could obtain -- could obtain a</p> <p>23 driver's license or an ID card.</p> <p>24 Q. Can a noncitizen obtain a license to carry?</p> <p>25 A. I'm not aware whether they can or not.</p>

JOE PETERS

4/30/2014

14 (Pages 53 to 56)

<p style="text-align: right;">53</p> <p>1 Q. So this proof of citizenship requirement for</p> <p>2 an EIC is an additional burden for individuals for</p> <p>3 attempting to vote using an EIC that doesn't exist for</p> <p>4 individuals who attempt to vote using a driver's</p> <p>5 license or identification card, correct?</p> <p>6 A. That's my understanding.</p> <p>7 Q. Please look at Section 15.182(4), which is</p> <p>8 supporting identification. What is the purpose of this</p> <p>9 set of documents?</p> <p>10 A. Supporting identification will aid the</p> <p>11 customer service representatives or the person doing</p> <p>12 the issuance in establishing the identity of the</p> <p>13 applicant.</p> <p>14 Q. Under Sub (d) --</p> <p>15 A. (E).</p> <p>16 Q. -- or -- sorry. Sub (c). Sorry. Why must an</p> <p>17 insurance policy be at least two years old?</p> <p>18 A. I have no idea.</p> <p>19 Q. Okay. Why must a military dependent</p> <p>20 identification card under Sub (f) be unexpired when</p> <p>21 compared to a driver's license which may be expired?</p> <p>22 A. I don't have that answer either.</p> <p>23 Q. Why must an out-of-state driver's license or</p> <p>24 identification card have been expired within two years</p> <p>25 when a Texas driver's license or identification card</p>	<p style="text-align: right;">55</p> <p>1 Q. More than likely?</p> <p>2 A. Yes.</p> <p>3 Q. Is that in the discretion of the CSR?</p> <p>4 A. That would be in the discretion of the CSR,</p> <p>5 and then final evaluation would be made at quality</p> <p>6 assurance.</p> <p>7 Q. If a CSR declines to provide a -- an EIC based</p> <p>8 on disagreement in the names that are underlying the</p> <p>9 application on the supporting documents, can an</p> <p>10 individual appeal that to any kind of supervisor?</p> <p>11 A. Well, that -- yeah, the supervisor -- the CSRs</p> <p>12 are instructed if they have a question about the name</p> <p>13 that they seek guidance from their -- their local</p> <p>14 supervisor.</p> <p>15 Q. Is the substantially -- sorry. Is the</p> <p>16 substantially similar rule that you described earlier,</p> <p>17 is that only with regard to first names?</p> <p>18 A. No.</p> <p>19 Q. So last names as well?</p> <p>20 A. Yes, sir.</p> <p>21 Q. If there is a disagreement because of an</p> <p>22 individual's name having been changed, such as a woman</p> <p>23 getting married, so that her first name remains the</p> <p>24 same, but the last name is entirely different --</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">54</p> <p>1 can be expired for any amount of time?</p> <p>2 A. I don't have that answer.</p> <p>3 Q. There are several other documents on this list</p> <p>4 that never expire, such as school records or military</p> <p>5 records, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Why are those acceptable when other documents</p> <p>8 must have been expired within a certain amount of time?</p> <p>9 A. I don't have a good answer for that.</p> <p>10 Q. Can you please take a look at</p> <p>11 Section 15.183(a)(1)? And this sets out the</p> <p>12 applicant's full name that must be included on an</p> <p>13 application for an election identification certificate.</p> <p>14 Does that full name have to match all the underlying</p> <p>15 documents that are provided with the application?</p> <p>16 A. Yes.</p> <p>17 Q. If there is a disagreement between an</p> <p>18 individual's voter registration record and that</p> <p>19 individual's expired driver's license with regard to a</p> <p>20 first name, will those documents be sufficient to</p> <p>21 obtain an election identification certificate?</p> <p>22 A. If the applicant is otherwise eligible for the</p> <p>23 election identification certificate and if the name</p> <p>24 is -- the entire name is substantially the same, they</p> <p>25 would more than likely be issued the EIC.</p>	<p style="text-align: right;">56</p> <p>1 Q. -- will that application for an EIC be</p> <p>2 granted?</p> <p>3 A. It -- it may not. It does just depends on</p> <p>4 what supporting documentation the applicant can provide</p> <p>5 that will convince the -- the issuing CSR that she's</p> <p>6 who she said she is.</p> <p>7 Q. So if Jane Smith married John Jones and her</p> <p>8 driver's license says Jane Smith, but her voter</p> <p>9 registration card says Jane Jones, would that be</p> <p>10 granted without any other documentation?</p> <p>11 A. I'm sorry. If -- what is she showing you</p> <p>12 when -- the CSR when she comes in?</p> <p>13 Q. She's showing a driver's license that expired</p> <p>14 two years ago --</p> <p>15 A. Okay.</p> <p>16 Q. -- that says Jane Smith. She's showing a more</p> <p>17 recent voter registration card that says Jane Jones</p> <p>18 because she got married to lucky John Jones.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Would that be sufficient to obtain an election</p> <p>21 identification card?</p> <p>22 A. Without documentation to show the marriage, I</p> <p>23 would say no.</p> <p>24 Q. Okay. And if there is a disagreement in the</p> <p>25 documents, but they're substantially similar; say,</p>

JOE PETERS

4/30/2014

15 (Pages 57 to 60)

<p style="text-align: right;">57</p> <p>1 Jane Smith and Janie Smith, would the EIC be issued</p> <p>2 under the name Jane Smith or Janie Smith or would it be</p> <p>3 her choice?</p> <p>4 A. It would be her choice based on what the</p> <p>5 documentation that she has provided.</p> <p>6 Q. So she could provide either of these</p> <p>7 substantially similar variations on the application and</p> <p>8 that would be fine?</p> <p>9 A. That's my understanding.</p> <p>10 Q. Okay. Is there any written guidance</p> <p>11 concerning this substantially -- substantial similarity</p> <p>12 rule?</p> <p>13 A. I'm not aware of it.</p> <p>14 Q. Do you know if it is any more stringent than</p> <p>15 the rule that is used to compare a voter's name at the</p> <p>16 voter registration table when they vote and the ID that</p> <p>17 they show under S.B. 14?</p> <p>18 A. Am I aware of a difference?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Is it the same rule?</p> <p>22 A. As far as I know.</p> <p>23 Q. Okay. Could you take a look at</p> <p>24 Section 15.183(a)(3)?</p> <p>25 A. Okay.</p>	<p style="text-align: right;">59</p> <p>1 Q. When was the practice changed?</p> <p>2 A. I'm sorry?</p> <p>3 Q. When was this practice changed?</p> <p>4 A. I think it was toward the end of September</p> <p>5 of 2013.</p> <p>6 Q. Are you confident that no driver's license</p> <p>7 office or mobile EIC station or county office that is</p> <p>8 accepting EIC applications is currently requiring</p> <p>9 fingerprinting as part of the EIC application process?</p> <p>10 A. That's currently requiring them?</p> <p>11 Q. Yes.</p> <p>12 A. I am confident that none of them are requiring</p> <p>13 them. There again, with as many customer service</p> <p>14 representatives as there are out there and because the</p> <p>15 process changes, they have to get the fingerprint for a</p> <p>16 driver license application, for an ID card application,</p> <p>17 and it's -- it's a check box on the EIC data entry</p> <p>18 screen where they bypass the fingerprint.</p> <p>19 Q. Okay.</p> <p>20 A. And there have been a couple of occasions</p> <p>21 where a CSR failed to bypass it, and it won't let you</p> <p>22 continue the application process until you either take</p> <p>23 the thumbprint or the fingerprint or you check the box</p> <p>24 to bypass it.</p> <p>25 Q. When the fingerprint requirement was in</p>
<p style="text-align: right;">58</p> <p>1 Q. Who at DPS -- sorry. First off, does this</p> <p>2 require that an individual requesting an election</p> <p>3 identification certificate submit to fingerprinting?</p> <p>4 A. The current rule does require.</p> <p>5 Q. Who at DPS decided to include this</p> <p>6 requirement?</p> <p>7 A. Oh, that was decided before my time, but it</p> <p>8 was -- it was part of the process of trying to ensure</p> <p>9 that the EIC process -- or EIC issuance process was as</p> <p>10 similar as possible to driver license and ID cards.</p> <p>11 However, since this was -- this rule was adopted in</p> <p>12 2011, I believe it was, we have determined -- the</p> <p>13 Secretary of State, in discussion with them, had</p> <p>14 concern that we were requiring fingerprint of an EIC</p> <p>15 applicant, and upon review we determined that we had no</p> <p>16 use for a fingerprint on an EIC application. You know,</p> <p>17 we weren't going to do anything with them anyway. It</p> <p>18 was a thumbprint. And we saw no reason to require a</p> <p>19 fingerprint. And we sent directives to the field that</p> <p>20 we would no longer require a fingerprint for an EIC</p> <p>21 application.</p> <p>22 And the -- the belief there was that it's</p> <p>23 a rule that was adopted by DPS and we felt like we</p> <p>24 could make enforcement of that rule less restrictive,</p> <p>25 but we couldn't make one more restrictive.</p>	<p style="text-align: right;">60</p> <p>1 effect, what did DPS do with the fingerprints?</p> <p>2 A. Nothing.</p> <p>3 Q. There was no type of check?</p> <p>4 A. No.</p> <p>5 Q. Didn't check the Texas Criminal Information</p> <p>6 Center?</p> <p>7 A. No, sir.</p> <p>8 Q. No warrant check?</p> <p>9 A. No, sir.</p> <p>10 Q. No tickets?</p> <p>11 A. No, sir.</p> <p>12 Q. Didn't check the National Criminal Information</p> <p>13 Center?</p> <p>14 A. No, sir.</p> <p>15 Q. Any other regular checks?</p> <p>16 A. No, sir.</p> <p>17 (Exhibit No. 39 marked.)</p> <p>18 THE REPORTER: Exhibit 39.</p> <p>19 Q. (BY MR. FREEMAN) Have you seen this article</p> <p>20 before?</p> <p>21 A. Yes, I have.</p> <p>22 Q. And what is this document?</p> <p>23 A. This is -- excuse me. It looks like a</p> <p>24 transcript of an article that appeared in the Fort</p> <p>25 Worth Star Telegram in September of 2013.</p>

JOE PETERS

4/30/2014

16 (Pages 61 to 64)

<p style="text-align: right;">61</p> <p>1 Q. And does this article state that more than one 2 DPS employee said during the week of September 19th, 3 2013, that, "If you can't pass a warrant check, you 4 can't walk in and get a voter ID and, if you try, you 5 won't walk back out"?</p> <p>6 A. That's what the article says.</p> <p>7 Q. But it's your understanding that at no point 8 those CSRs were running warrant checks on individuals 9 who were obtaining -- or were attempting to obtain an 10 EIC?</p> <p>11 A. That's correct.</p> <p>12 Q. And so those -- those DPS employees were 13 telling reporters that they were running warrant 14 checks, but they weren't running warrant checks?</p> <p>15 A. That's --</p> <p>16 MR. KEISTER: Objection, form, calls for 17 speculation.</p> <p>18 Q. (BY MR. FREEMAN) That's your understanding of 19 those statements?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Who is Tom Vinger?</p> <p>22 A. He is our -- one of the staff in the public 23 information office, or media and communications office 24 it is.</p> <p>25 Q. And -- and this article states that Mr. Vinger</p>	<p style="text-align: right;">63</p> <p>1 running a warrant check.</p> <p>2 And -- and at the time Mr. Vinger made 3 this comment, he was not aware of that, nor were some 4 of the CSRs aware that that was not happening. As a 5 matter of fact, we weren't aware of it until we went to 6 explore what was going on with it, because no one was 7 ever -- was ever turned away because of a warrant for 8 an EIC applicant.</p> <p>9 Q. (BY MR. FREEMAN) Has DPS promulgated any 10 rules or notices in order to combat this perception 11 that a warrant check will be run?</p> <p>12 A. Well, as far as promulgating rules, published 13 rules in the administrative code, I don't recall that 14 there were. There have been directives to the field 15 that there will be no warrant checks. And, in fact, in 16 the EIC application screen there is no capability to 17 run a warrant check. And even in the driver's license 18 screen, they can't arbitrarily run a warrant check.</p> <p>19 In the driver's license application 20 process and the ID card application process, once 21 sufficient data, identifying data, for an applicant is 22 in there, the system goes and runs the warrant check 23 automatically. And what it returns is there's a 24 warrant -- a notice on the screen that says there's a 25 warrant. And then the CSR contacts local law</p>
<p style="text-align: right;">62</p> <p>1 had told the reporter that it's routine to check anyone 2 at a license office for warrants?</p> <p>3 A. Where do you see that?</p> <p>4 Q. Starting -- the line starting, "Just the day 5 before."</p> <p>6 A. Yes, sir, I see that. And now what's your 7 question?</p> <p>8 Q. Would -- knowing Mr. Vinger, would Mr. Vinger 9 have misrepresented to a reporter that it was routine 10 for every DPS interaction to include a warrant check?</p> <p>11 MR. KEISTER: Objection, form, calls for 12 speculation, and also no basis of foundation.</p> <p>13 Q. (BY MR. FREEMAN) I'm asking based on your 14 knowledge of Mr. Vinger's veracity.</p> <p>15 MR. KEISTER: Same objections.</p> <p>16 THE WITNESS: I have no question about 17 his veracity. What I do believe with respect to 18 that -- to that statement was that there was a common 19 belief that the EIC -- excuse me -- the EIC database 20 and the data entry screens actually automatically ran a 21 warrant check on an applicant when, in fact, it did 22 not. It does do an automatic warrant check on a 23 driver's license applicant or a Texas ID card 24 applicant, but at no time was the EIC application 25 screen or the EIC application process automatically</p>	<p style="text-align: right;">64</p> <p>1 enforcement or a trooper, if there happens to be one in 2 the office, to handle it from that point on. The CSR 3 doesn't know what the warrant is for typically.</p> <p>4 In the case of EICs, there's no warrant 5 check run and they don't even have the capability to 6 run one.</p> <p>7 Q. How long are fingerprint records maintained 8 once they're taken by DPS?</p> <p>9 A. I don't know. I would assume forever, but I 10 don't know that answer.</p> <p>11 Q. So the fingerprint records that were taken 12 while DPS was still requiring fingerprints as part of 13 the EIC application process, those are still maintained 14 in the DPS database somewhere?</p> <p>15 A. I'm not sure they are. Those may have been 16 deleted.</p> <p>17 Q. But you don't know?</p> <p>18 A. I don't know for sure, no, sir.</p> <p>19 Q. Are individuals informed of any potential 20 future use of the EIC?</p> <p>21 A. Of the --</p> <p>22 Q. Oh, sorry. Of the fingerprint that's taken?</p> <p>23 A. On -- on EICs?</p> <p>24 Q. Yes.</p> <p>25 A. Well, no, we're not taking fingerprints on</p>

JOE PETERS

4/30/2014

17 (Pages 65 to 68)

<p style="text-align: right;">65</p> <p>1 EICs.</p> <p>2 Q. But the ones that were taken --</p> <p>3 A. No --</p> <p>4 Q. -- before the process --</p> <p>5 A. -- not that I'm aware.</p> <p>6 Q. Okay. Do you have discretion; "you," being</p> <p>7 DPS, to begin taking fingerprints at any time under the</p> <p>8 existing regulation?</p> <p>9 A. Yes, we do under existing regulations.</p> <p>10 Q. Are there any plans to amend the regulation?</p> <p>11 A. Absolutely not.</p> <p>12 Q. Why not?</p> <p>13 A. As I said before, we don't -- we don't see a</p> <p>14 need for taking a fingerprint on -- on an EIC</p> <p>15 applicant.</p> <p>16 Q. But are -- are there any -- given that the</p> <p>17 regulation currently states that a fingerprint is</p> <p>18 required, why would DPS not change the regulation?</p> <p>19 A. Because we don't see a need to take the -- oh,</p> <p>20 you're talking about change the regulation to --</p> <p>21 Q. To eliminate --</p> <p>22 A. Yes, we can do that. I'm sorry.</p> <p>23 Q. Is there any current plan to do so?</p> <p>24 A. As far as a written documented plan to do so,</p> <p>25 no, I can't tell you when that's going to happen. But</p>	<p style="text-align: right;">67</p> <p>1 public perception that interactions with DPS will</p> <p>2 trigger a check for warrants?</p> <p>3 A. There is that public perception in some</p> <p>4 circles.</p> <p>5 Q. Is law enforcement present at DPS offices that</p> <p>6 issue driver's licenses and EICs?</p> <p>7 A. Some of those there are.</p> <p>8 Q. What is the distinction between the offices</p> <p>9 that have law enforcement present and those that don't?</p> <p>10 A. Some of the driver's license offices are</p> <p>11 co-located with highway patrol and rangers and criminal</p> <p>12 investigation divisions, so forth, so there may be law</p> <p>13 enforcement in the building. Some of the larger</p> <p>14 offices; our mega centers, for example, have a trooper</p> <p>15 assigned to the -- to the office to handle warrants for</p> <p>16 driver license and ID card applicants. They're</p> <p>17 generally not present in the -- excuse me -- in the</p> <p>18 issuance area, but they're readily available.</p> <p>19 Q. And those larger offices, those are generally</p> <p>20 in urban areas?</p> <p>21 A. Yes, sir.</p> <p>22 Q. So it's more likely that offices in urban</p> <p>23 areas will have law enforcement present?</p> <p>24 A. Yes, sir. I think that's a safe statement.</p> <p>25 Q. Is there any rule authorizing law enforcement</p>
<p style="text-align: right;">66</p> <p>1 I can assure you that we will be doing that.</p> <p>2 Q. When did those discussions occur?</p> <p>3 A. Periodically since the September timeframe of</p> <p>4 2013 to present.</p> <p>5 Q. But it hasn't happened yet?</p> <p>6 A. No.</p> <p>7 Q. Is there an administrative process where a</p> <p>8 rule has to be sent out for comment?</p> <p>9 A. Yes.</p> <p>10 Q. And that process hasn't begun?</p> <p>11 A. That hasn't begun.</p> <p>12 Q. Any -- have there been any other postings,</p> <p>13 notices, or press releases regarding the elimination of</p> <p>14 the fingerprint requirement?</p> <p>15 A. Yes.</p> <p>16 Q. What are those?</p> <p>17 A. I'm not aware of specific notices or press</p> <p>18 releases that -- that were issued.</p> <p>19 Q. But it's your understanding that there were</p> <p>20 some?</p> <p>21 A. Yes, uh-huh.</p> <p>22 Q. Any other voter education efforts regarding</p> <p>23 the elimination of the fingerprint requirements?</p> <p>24 A. Well, not on our part.</p> <p>25 Q. Okay. Is it your understanding that there's a</p>	<p style="text-align: right;">68</p> <p>1 to be present at mobile EIC stations?</p> <p>2 A. No.</p> <p>3 Q. Are they present?</p> <p>4 A. Rarely, if ever.</p> <p>5 Q. But sometimes they are?</p> <p>6 A. Well, if some local law enforcement happens to</p> <p>7 come in, there -- you know, there would be a law</p> <p>8 enforcement presence there. But there's no requirement</p> <p>9 that one be there. We don't ask for them to be there.</p> <p>10 Q. To your knowledge, does a voter registration</p> <p>11 application in Texas require fingerprints?</p> <p>12 A. No.</p> <p>13 Q. Does a US passport application require</p> <p>14 fingerprints?</p> <p>15 A. I don't know.</p> <p>16 Q. Does an applicant for a military ID have to</p> <p>17 provide fingerprints?</p> <p>18 A. I don't know that. When I got one I had to</p> <p>19 give fingerprints.</p> <p>20 Q. Sounds like a basis of knowledge for me. More</p> <p>21 than I know.</p> <p>22 Let's move to 15.183(a)(6). Does this</p> <p>23 brief description of the applicant that is required</p> <p>24 under the application, does that include the race of</p> <p>25 the applicant?</p>

JOE PETERS

4/30/2014

18 (Pages 69 to 72)

<p style="text-align: right;">69</p> <p>1 A. Yes.</p> <p>2 Q. How is that race determined?</p> <p>3 A. Whatever the applicant puts on their</p> <p>4 application.</p> <p>5 Q. It's on the form?</p> <p>6 A. Yes.</p> <p>7 Q. Is that recorded in a database of any kind?</p> <p>8 A. It is.</p> <p>9 Q. So would it be searchable by -- would that</p> <p>10 database be searchable by race?</p> <p>11 A. It is.</p> <p>12 Q. If you can look at 15.183(b), Social Security</p> <p>13 number. Under what circumstances do federal or state</p> <p>14 law require that an EIC not be issued in the absence of</p> <p>15 proof of Social Security number?</p> <p>16 A. I'm not sure I understood your question,</p> <p>17 but --</p> <p>18 Q. Am I correct that the regulation states that</p> <p>19 if the applicant fails or refuses to provide Social</p> <p>20 Security information, the election identification</p> <p>21 certificate will be issued without such documentation</p> <p>22 unless state or federal statute requires otherwise."</p> <p>23 Is that a correct reading of that</p> <p>24 provision?</p> <p>25 A. Yes, it is.</p>	<p style="text-align: right;">71</p> <p>1 customer service representation -- I mean -- I'm</p> <p>2 sorry -- a customer service representative, yes.</p> <p>3 Q. Are all the mobile EIC stations staffed by</p> <p>4 CSRs?</p> <p>5 A. If -- well, no. If it's a mobile station</p> <p>6 that's operated by a county, a CSR won't be there. If</p> <p>7 it's a mobile station operated by Health and Human</p> <p>8 Services Commission staff, a CSR won't be there.</p> <p>9 Q. And if it's a mobile -- sorry. Strike that.</p> <p>10 If it is a county office at which EIC</p> <p>11 applications are accepted, there won't be a -- an</p> <p>12 authorized employee of the Department of Public Safety</p> <p>13 who can issue an oath or affirmation, correct?</p> <p>14 A. There won't be a DPS employee there. There</p> <p>15 may be others within the county offices that could do</p> <p>16 that. I don't know the -- how many of those would have</p> <p>17 notary authorization.</p> <p>18 Q. And is there a cost associated with receiving</p> <p>19 notary public services?</p> <p>20 A. No. If you're talking about the customer</p> <p>21 service representative certifying a document, no.</p> <p>22 Q. If a CSR is not present at either a mobile</p> <p>23 station or a county office and an individual needs a</p> <p>24 notary to -- under this regulation are notaries</p> <p>25 authorized to charge for their services in Texas?</p>
<p style="text-align: right;">70</p> <p>1 Q. Under what circumstances would federal or</p> <p>2 state law require that an EIC not be issued in the</p> <p>3 absence of proof of Social Security number?</p> <p>4 A. I don't have the answer.</p> <p>5 Q. So, to your knowledge, there are no</p> <p>6 circumstances in which failure or refusal to provide</p> <p>7 Social Security number will result in failure of an EIC</p> <p>8 to be issued?</p> <p>9 MR. KEISTER: Object to form,</p> <p>10 mischaracterizes his testimony.</p> <p>11 Q. (BY MR. FREEMAN) Is that your understanding?</p> <p>12 A. Yes, sir.</p> <p>13 Q. If we can go to 15.183(c), which addresses</p> <p>14 notarization. Is a notary present at all DPS offices?</p> <p>15 A. No, sir.</p> <p>16 Q. Is -- but all requirements for an EIC require</p> <p>17 notarization?</p> <p>18 A. Yes. But the customer service representatives</p> <p>19 are authorized by statute to -- to certify or verify</p> <p>20 the applications and the information although they're</p> <p>21 not notaries.</p> <p>22 Q. Are individuals who work at all DPS mobile</p> <p>23 stations authorized to administer oaths or</p> <p>24 affirmations?</p> <p>25 A. If it's a customer service, a DPS employee</p>	<p style="text-align: right;">72</p> <p>1 A. They are authorized.</p> <p>2 Q. And how much does that cost?</p> <p>3 A. I don't know. And I think it varies with the</p> <p>4 notary.</p> <p>5 Q. Is it your understanding that a notary or an</p> <p>6 official who can administer oaths or affirmations under</p> <p>7 this provision is present at all mobile EIC stations?</p> <p>8 A. Let me hear the question again.</p> <p>9 Q. Sure. At all mobile EIC stations is there an</p> <p>10 official who can issue oaths or affirmations or a</p> <p>11 notary present?</p> <p>12 A. I'm not aware.</p> <p>13 Q. At all county offices at which EICs are</p> <p>14 available, is there a notary present or a similar</p> <p>15 official who can administer oaths?</p> <p>16 A. I don't know the answer to that one either.</p> <p>17 Q. Does one have to show proof of identity to a</p> <p>18 notary in order for the notary to notarize an</p> <p>19 application for an EIC?</p> <p>20 A. Well, I'm not a notary, but in my experience,</p> <p>21 yes, you do.</p> <p>22 Q. Do you know what documents satisfy proof of</p> <p>23 identity for notarization in Texas?</p> <p>24 A. I know a Texas driver's license or an ID card</p> <p>25 satisfies that requirement. Beyond that, I don't know</p>

JOE PETERS

4/30/2014

19 (Pages 73 to 76)

<p style="text-align: right;">73</p> <p>1 what they require.</p> <p>2 Q. If you're not known to a notary, is it</p> <p>3 required to show photographic identification to that</p> <p>4 notary?</p> <p>5 A. It's my understanding that it is.</p> <p>6 Q. So if an individual needs a notary to notarize</p> <p>7 an EIC application under this provision and they need</p> <p>8 the EIC application because they don't have photo ID</p> <p>9 and they're not known to the notary, they can't get a</p> <p>10 notary to notarize that EIC application, correct?</p> <p>11 MR. KEISTER: Object to the form and it</p> <p>12 calls for legal conclusion that he's not -- calls for a</p> <p>13 legal opinion that's not qualified to give.</p> <p>14 THE WITNESS: And I don't know the answer</p> <p>15 to the question.</p> <p>16 Q. (BY MR. FREEMAN) Okay. If we can go to</p> <p>17 Section 151.184(a), the last page. Does an EIC that is</p> <p>18 at least seven years old establish an individual's</p> <p>19 identity?</p> <p>20 A. No, sir.</p> <p>21 Q. Why not?</p> <p>22 A. It would have been expired by then unless they</p> <p>23 have renewed it --</p> <p>24 Q. But does it --</p> <p>25 A. -- or unless they're over 60 years old.</p>	<p style="text-align: right;">75</p> <p>1 require another photo. You renew by mail or by --</p> <p>2 online, there's no new photo. You have to come in</p> <p>3 every 12 years to get a new photo taken.</p> <p>4 Q. So why allow individuals to use photos that</p> <p>5 are up to 12 years old for a driver's license but not</p> <p>6 for an EIC?</p> <p>7 A. I don't have a good answer for that.</p> <p>8 Q. Does an EIC that is at least seven years old</p> <p>9 and was issued to an individual who was at least</p> <p>10 77 years old establish that individual's identity?</p> <p>11 A. For our purposes in issuing the EIC, yes.</p> <p>12 Q. Why the distinction between older and younger</p> <p>13 individuals with regard to the ability of the EIC to</p> <p>14 establish an individual's identity?</p> <p>15 A. I don't know.</p> <p>16 Q. Please look at Section 151.184(b)(3) under</p> <p>17 "Renewal." This provision says, "The department may</p> <p>18 provide certificate holders with alternative means of</p> <p>19 renewing or duplicating an election identification</p> <p>20 certification."</p> <p>21 Have any alternative means been</p> <p>22 established at this time?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Okay. Please look at Section 151.184(c),</p> <p>25 "Applications for Replacements and Corrections." What</p>
<p style="text-align: right;">74</p> <p>1 Q. But as a practical matter, how does the age</p> <p>2 distinction change whether or not the document shows</p> <p>3 that the individual is who they say they are?</p> <p>4 MR. KEISTER: Object to form, vague, and</p> <p>5 calls for speculation.</p> <p>6 THE WITNESS: I don't have an answer.</p> <p>7 Q. (BY MR. FREEMAN) What is the purpose of</p> <p>8 requiring renewal?</p> <p>9 A. Updating the photo and updating an address in</p> <p>10 the database.</p> <p>11 Q. But the address isn't on the card, correct?</p> <p>12 A. No, sir.</p> <p>13 Q. And doesn't -- is a new photo taken every time</p> <p>14 you renew an EIC?</p> <p>15 A. Yes, sir, I believe it is.</p> <p>16 Q. Is a new photo taken every time --</p> <p>17 A. We haven't experienced that, but that's a</p> <p>18 requirement.</p> <p>19 Q. Is a new photo taken every time you renew a</p> <p>20 driver's license?</p> <p>21 A. No.</p> <p>22 Q. Why the distinction?</p> <p>23 A. If you are renewing your driver's license</p> <p>24 within six years of -- of the original application or</p> <p>25 within the last time you had a photo, then we don't</p>	<p style="text-align: right;">76</p> <p>1 are the actual requirements for an application for a</p> <p>2 replacement or correction?</p> <p>3 A. Notification that the EIC has been lost,</p> <p>4 destroyed, or mutilated or if there's been a change of</p> <p>5 name or gender.</p> <p>6 Q. And how is that notification made?</p> <p>7 A. By the applicant.</p> <p>8 Q. On what form?</p> <p>9 A. It could be a marriage certificate; it could</p> <p>10 be an affidavit that they've lost it or that it's been</p> <p>11 mutilated.</p> <p>12 Q. Is an individual required to go to a DPS</p> <p>13 office in order to obtain a replacement or correction?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Is there an existing form for replacements as</p> <p>16 opposed to issuance of new EICs?</p> <p>17 A. I believe there is. I'm not familiar with the</p> <p>18 form right off the top of my head.</p> <p>19 Q. Okay. Are these procedures set out in any</p> <p>20 regulation, the procedures for replacements or</p> <p>21 corrections?</p> <p>22 A. Other than what you see in the administrative</p> <p>23 rule, I'm -- no.</p> <p>24 Q. Okay. And would you agree with me that the</p> <p>25 circumstances for replacement or correction are set out</p>

JOE PETERS

4/30/2014

20 (Pages 77 to 80)

<p style="text-align: right;">77</p> <p>1 in the rule, but the procedures are not?</p> <p>2 A. The procedures are not set out in the rule.</p> <p>3 Q. Would you take a look at Section 151.185. Are</p> <p>4 there any grounds to cancel or require surrender of an</p> <p>5 EIC other than noncompliance with the requirements of</p> <p>6 Section 151.181?</p> <p>7 A. I'm not aware of any.</p> <p>8 Q. Has DPS enacted any other formal regulations</p> <p>9 that are relevant to the implementation of S.B. 14 in</p> <p>10 general and --</p> <p>11 A. I'm not aware of any.</p> <p>12 Q. Are there any other administrative rules</p> <p>13 besides the regulations that we've just been</p> <p>14 discussing?</p> <p>15 A. I'm not aware of any.</p> <p>16 MR. KEISTER: Dan, is this a good time</p> <p>17 for a break?</p> <p>18 MR. FREEMAN: It is a great time for a</p> <p>19 break.</p> <p>20 THE REPORTER: Off the record.</p> <p>21 (Recess from 10:19 a.m. to 10:39 a.m.)</p> <p>22 THE REPORTER: Back on the record.</p> <p>23 MR. FREEMAN: Back on the record. Thank</p> <p>24 you.</p> <p>25 THE WITNESS: Can I make a</p>	<p style="text-align: right;">79</p> <p>1 regarding those regulations and rules, correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And with regard to several of those rules, you</p> <p>4 stated that you did not why certain rules were</p> <p>5 structured as they -- as they are, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. So to the best of your knowledge, after your</p> <p>8 review and preparation for this deposition, there is no</p> <p>9 reason for the rules that you did not know a reason for</p> <p>10 them that they're structured as they are, correct?</p> <p>11 MR. KEISTER: Object to form, calls for</p> <p>12 speculation and the question is confusing.</p> <p>13 MR. FREEMAN: I'm happy to rephrase.</p> <p>14 Q. (BY MR. FREEMAN) With regard to those rules</p> <p>15 that you did not know a basis for those rules, to the</p> <p>16 best of your knowledge, is there no basis for those</p> <p>17 rules?</p> <p>18 MR. KEISTER: Object to form. Once</p> <p>19 again, it calls for speculation and that would be a</p> <p>20 misleading characterization of the testimony.</p> <p>21 Q. (BY MR. FREEMAN) You may answer.</p> <p>22 A. If you're asking if I believe there was no</p> <p>23 basis for those rules?</p> <p>24 Q. I'm asking, to your knowledge --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">78</p> <p>1 clarification --</p> <p>2 Q. Absolutely.</p> <p>3 A. -- on previous testimony?</p> <p>4 I mentioned earlier, I believe, that we</p> <p>5 did a SAVE verification or a computerized check on</p> <p>6 citizenship and so forth. That's not accurate. It's</p> <p>7 not done either at the CSR station at the point of</p> <p>8 application or after -- or during quality assurance.</p> <p>9 Q. Thank you for that clarification. I</p> <p>10 appreciate that.</p> <p>11 A. Sure.</p> <p>12 Q. So before we move off the regulations real</p> <p>13 quickly, I just wanted to verify with you. So you're</p> <p>14 in charge of the driver's license division as a whole,</p> <p>15 correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you have expertise in the implementation</p> <p>18 of the EIC program, correct?</p> <p>19 A. That might be debatable, but, yes.</p> <p>20 Q. And you had an opportunity before testifying</p> <p>21 to determine the rationale for the regulations and</p> <p>22 rules that we just discussed, correct?</p> <p>23 A. I had that opportunity, yes, sir.</p> <p>24 Q. And you were -- you were on notice that you</p> <p>25 were going to be testifying on behalf of the state</p>	<p style="text-align: right;">80</p> <p>1 Q. -- is there no basis for the rules that you</p> <p>2 did not know a basis for?</p> <p>3 MR. KEISTER: Same objections.</p> <p>4 THE WITNESS: I don't believe that there</p> <p>5 was no basis for the rule. Based on my experience in</p> <p>6 ten months of having been involved in those, there is a</p> <p>7 basis for everything we do with respect to rules.</p> <p>8 Q. (BY MR. FREEMAN) But insofar as your</p> <p>9 providing testimony here today on behalf of the State,</p> <p>10 you cannot provide any basis for several of the rules</p> <p>11 we just discussed, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I would like to move on to the mobile</p> <p>14 stations and county offices that provide EIC services.</p> <p>15 Are there any formal rules or regulations that</p> <p>16 authorize the issuance of EICs for mobile stations?</p> <p>17 A. There is legislation that was passed in the</p> <p>18 83rd session that authorizes DPS to enter into a</p> <p>19 memoranda of agreement with county offices to issue</p> <p>20 driver licenses -- I'm sorry -- to provide renewal</p> <p>21 services and address changes and so forth for driver</p> <p>22 licenses and identification cards. And that was the</p> <p>23 basis for which we believed we were also authorized to</p> <p>24 do issuance of EICs by the county. And the process is</p> <p>25 governed by a memorandum of agreement that the county</p>

JOE PETERS

4/30/2014

21 (Pages 81 to 84)

<p style="text-align: right;">81</p> <p>1 signed with DPS to conduct EIC issuance.</p> <p>2 Q. We'll get to eventually.</p> <p>3 A. Okay.</p> <p>4 Q. But my question was, are there any formal</p> <p>5 rules or regulations that authorize the issuance of</p> <p>6 EICs from mobile stations or county offices?</p> <p>7 A. Authorizing EICs specifically? No.</p> <p>8 Q. Does S.B. 14 require or authorize issuance of</p> <p>9 EICs for mobile stations or county offices?</p> <p>10 A. No.</p> <p>11 Q. Is it subject to DPS' discretion to terminate</p> <p>12 the issuance of EICs from mobile stations?</p> <p>13 A. Yes.</p> <p>14 Q. Is it subject to DPS' discretion to terminate</p> <p>15 the issuance of EICs from county offices?</p> <p>16 A. Yes.</p> <p>17 (Exhibit No. 40 marked.)</p> <p>18 THE REPORTER: Exhibit 40.</p> <p>19 Q. (BY MR. FREEMAN) What is this document?</p> <p>20 A. This is a copy of the interlocal cooperation</p> <p>21 contract for mobile EIC operations between the</p> <p>22 Department of Public Safety and Duval County, Texas.</p> <p>23 Q. And did you sign this document?</p> <p>24 A. Yes, I did.</p> <p>25 Q. What is the interlocal cooperation contract?</p>	<p style="text-align: right;">83</p> <p>1 A. Yes, sir.</p> <p>2 Q. Am I correct that the Interlocal Cooperation</p> <p>3 Act does not state that state agencies can contract</p> <p>4 with a local government to delegate state services to</p> <p>5 be provided at the local level?</p> <p>6 MR. KEISTER: Objection, form, calls for</p> <p>7 a legal conclusion.</p> <p>8 Q. (BY MR. FREEMAN) I'm happy to restate if you</p> <p>9 didn't understand the question.</p> <p>10 A. Yeah, if you would.</p> <p>11 Q. Sure. Am I correct that the Interlocal</p> <p>12 Cooperation Act does not provide for state agencies to</p> <p>13 delegate the provision of services to local government</p> <p>14 entities to provide those services?</p> <p>15 A. I don't know.</p> <p>16 Q. Am I correct that nothing in S.B. 14</p> <p>17 authorizes the use of interlocal cooperation</p> <p>18 agreements?</p> <p>19 A. You're correct.</p> <p>20 Q. Am I correct that there's no regulation under</p> <p>21 the Interlocal Cooperation Act that authorizes this</p> <p>22 program?</p> <p>23 A. Yes.</p> <p>24 Q. Now, you previously discussed legislation from</p> <p>25 the 83rd Legislature. Was that S.B. 1729?</p>
<p style="text-align: right;">82</p> <p>1 A. That's the agreement that DPS entered with the</p> <p>2 local agency; in this case, Duval County, and what the</p> <p>3 processes were, who does what, who provides what for</p> <p>4 the issuance of an EIC.</p> <p>5 Q. Is there any DPS regulation that authorizes</p> <p>6 this relationship?</p> <p>7 A. No.</p> <p>8 Q. Am I correct that the document says it was</p> <p>9 authorized by Chapter 521 of the Texas Transportation</p> <p>10 Code?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Am I correct that Chapter 521 addresses only</p> <p>13 driver's licenses and not EICs?</p> <p>14 A. Correct.</p> <p>15 Q. Is there any regulation under Chapter 521 that</p> <p>16 authorizes DPS to delegate duties to local government?</p> <p>17 A. No, sir, not directly.</p> <p>18 Q. It also says it's authorized by Chapter 791 of</p> <p>19 the Texas Government Code, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Is that the Interlocal Cooperation Act?</p> <p>22 A. I believe it is, yes, sir.</p> <p>23 Q. Am I correct that the Interlocal Cooperation</p> <p>24 Act authorizes local governments to contract for</p> <p>25 services with other localities and state agencies?</p>	<p style="text-align: right;">84</p> <p>1 A. Yes, sir.</p> <p>2 Q. Am I correct that this document does not say</p> <p>3 that it is authorized by S.B. 1729?</p> <p>4 A. That's correct.</p> <p>5 Q. And am I correct that S.B. 1729 is a pilot</p> <p>6 program that's limited to only eight counties of</p> <p>7 specified sizes, correct?</p> <p>8 A. In it -- well, actually, it -- yeah. But it</p> <p>9 also authorizes us to provide those services in</p> <p>10 counties where we already have scheduled offices. So</p> <p>11 we're not limited to -- to those eight counties. If</p> <p>12 there are other counties -- if there are 40 counties</p> <p>13 out there that have a scheduled office, then our</p> <p>14 interpretation of the legislation is that we could</p> <p>15 establish the same presence in any of those counties.</p> <p>16 Q. So your understanding of S.B. 1729 is that it</p> <p>17 is not a limited pilot program that is limited to</p> <p>18 eight counties?</p> <p>19 A. It's limited to the extent that we would not</p> <p>20 establish pilots in counties that -- that don't already</p> <p>21 have -- the counties that we're limited to would be</p> <p>22 those where we don't already have some limited</p> <p>23 presence, whether there's a part-time office where we</p> <p>24 don't have -- I mean, where we have equipment already</p> <p>25 and we have connectivity and so forth, then we can</p>

JOE PETERS

4/30/2014

22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 establish a county presence in any of those counties.</p> <p>2 Q. And so S.B. 1729 only allows you to establish</p> <p>3 a presence in eight additional counties, correct?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. Am I correct that you've established either</p> <p>6 mobile operations or operations in county offices in</p> <p>7 more than eight counties in which you did not</p> <p>8 previously have DPS offices?</p> <p>9 A. Are you saying for driver license issuance or</p> <p>10 for EIC issuance?</p> <p>11 Q. EIC issuance.</p> <p>12 A. Okay. Now, say the -- ask your question</p> <p>13 again.</p> <p>14 Q. Sure. Am I correct that you've established</p> <p>15 EIC operations in more than eight counties in which you</p> <p>16 do not have functional DPS offices?</p> <p>17 A. Yes.</p> <p>18 Q. And what is the statute, rule, or regulation</p> <p>19 that authorizes that?</p> <p>20 A. I'm not aware of one.</p> <p>21 Q. Has any formal notice been given that EICs are</p> <p>22 available from mobile stations as a general matter?</p> <p>23 A. Yes.</p> <p>24 Q. What formal notice is that?</p> <p>25 A. Press releases from the Department of Public</p>	<p style="text-align: right;">87</p> <p>1 a mobile site we asked them for five days' notice for</p> <p>2 us.</p> <p>3 Q. So the Secretary of State's office is the one</p> <p>4 controlling where the mobile sites are located?</p> <p>5 A. Well, the -- to the extent that -- that</p> <p>6 they're deploying their state -- their mobile stations,</p> <p>7 the ones that they own --</p> <p>8 Q. Uh-huh.</p> <p>9 A. -- and that they man, they -- they govern all</p> <p>10 of those.</p> <p>11 Q. Okay.</p> <p>12 A. To the extent that -- that we're deploying DPS</p> <p>13 mobile stations in counties that don't have a driver</p> <p>14 license present, we assign those on a rotating basis.</p> <p>15 And our goal is to provide at least five days of</p> <p>16 service in each of those counties prior to any</p> <p>17 election.</p> <p>18 Q. And how far in advance of that -- those</p> <p>19 five days of service do you provide notice that those</p> <p>20 DPS-run mobile stations will be present in those</p> <p>21 communities?</p> <p>22 A. That would be a question for media and</p> <p>23 communications. I can't tell you. I don't know.</p> <p>24 Q. And so you don't know how that notice is</p> <p>25 promulgated?</p>
<p style="text-align: right;">86</p> <p>1 Safety Media and Communications Office, social media</p> <p>2 from the -- from the media and communications office,</p> <p>3 our website. The Secretary of State, I believe, has</p> <p>4 done notification.</p> <p>5 Q. Any direct mailers to registered voters?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. Any targeted outreach to minority communities?</p> <p>8 A. From DPS perspective? No.</p> <p>9 Q. Okay. And, sorry. I just -- I should have</p> <p>10 asked one more question about S.B. 1729. You said you</p> <p>11 were not aware of any authorization beyond</p> <p>12 eight counties in which DPS was not functioning. So to</p> <p>13 your knowledge, there is no authorization beyond -- for</p> <p>14 DPS to have those county operations beyond eight</p> <p>15 counties authorized by S.B. 1729?</p> <p>16 A. Well, 1729 does not mention EIC specifically.</p> <p>17 To the extent that we're authorized to provide driver</p> <p>18 license services and ID card services, there is</p> <p>19 specific authorization.</p> <p>20 Q. How long in advance of a mobile station</p> <p>21 location operating is notice provided regarding the</p> <p>22 specific location?</p> <p>23 A. I'm not aware of how far in advance those</p> <p>24 notices are given. We have asked -- when the Secretary</p> <p>25 of State's office identifies a location where they want</p>	<p style="text-align: right;">88</p> <p>1 A. I know -- I know that it's done with press</p> <p>2 releases and social media contact and so forth. But in</p> <p>3 terms of how far in advance they -- they make those</p> <p>4 notifications, I don't know.</p> <p>5 Q. And do you know whether those notifications</p> <p>6 are made in Spanish language media?</p> <p>7 A. I don't know, but I'm sure they are.</p> <p>8 Q. But you don't have a basis to ensure that they</p> <p>9 are?</p> <p>10 A. I've not seen -- I've not seen Spanish</p> <p>11 language notification. I know that there have been</p> <p>12 interviews by Spanish language television stations and</p> <p>13 so forth.</p> <p>14 (Exhibit No. 41 marked.)</p> <p>15 THE REPORTER: Exhibit 41.</p> <p>16 Q. (BY MR. FREEMAN) What is this document?</p> <p>17 A. This is an e-mail from Tony Rodriguez at DPS</p> <p>18 to Wroe Jackson at the Secretary of State's office</p> <p>19 dated October 2nd, 2013.</p> <p>20 Q. And am I correct that this e-mail relays</p> <p>21 complaints from a county commissioner in Bexar County</p> <p>22 concerning the sufficiency of notice before mobile</p> <p>23 stations were present in Bexar County?</p> <p>24 A. That's correct.</p> <p>25 Q. Is Bexar County predominantly Hispanic?</p>

JOE PETERS

4/30/2014

23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 A. I'm not sure what the -- the demographics are</p> <p>2 in Bexar County.</p> <p>3 Q. Are you aware of any other complaints from</p> <p>4 local officials about insufficient notice before mobile</p> <p>5 EIC units were sent out in their community?</p> <p>6 A. I'm not aware of any. That doesn't mean that</p> <p>7 there aren't any.</p> <p>8 Q. And am I correct that -- that this e-mail</p> <p>9 describes an individual in DPS telling</p> <p>10 Commissioner Rodriguez that she would tell him on</p> <p>11 October 16th what date an EIC station will be present</p> <p>12 in Bexar County and that that EIC station will be</p> <p>13 present sometime between October 25th and October 28th?</p> <p>14 A. Are you asking me if that's what's in the</p> <p>15 e-mail?</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. And am I correct that that only provides</p> <p>19 nine days of notice before the EIC station will be</p> <p>20 present?</p> <p>21 MR. KEISTER: Object to form, calls for</p> <p>22 speculation.</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q. (BY MR. FREEMAN) Are you aware of how many</p> <p>25 other counties have provided similar complaints?</p>	<p style="text-align: right;">91</p> <p>1 would get back with him and give him the dates. And if</p> <p>2 there were others, I'm not aware of them.</p> <p>3 Q. (BY MR. FREEMAN) So you're not aware --</p> <p>4 you're not aware of any specific efforts that were made</p> <p>5 to provide more notice than the amount of notice that</p> <p>6 this county commissioner deemed insufficient?</p> <p>7 A. I'm not.</p> <p>8 Q. Is there any rule that allows, but doesn't</p> <p>9 require counties to perform certain processing services</p> <p>10 for EIC applicants?</p> <p>11 A. Would you restate the question?</p> <p>12 Q. Sure. Is there any rule that allows -- any</p> <p>13 administrative rule or regulation that allows counties</p> <p>14 to perform processing requirements for EIC</p> <p>15 applications?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. Is it up to counties to determine if they want</p> <p>18 to participate in providing processing services for EIC</p> <p>19 applicants?</p> <p>20 A. Yes, it is.</p> <p>21 Q. Are you aware of any legal obligation for</p> <p>22 counties to participate?</p> <p>23 A. I'm not aware of any legal obligations.</p> <p>24 Q. Are counties paid for their services?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">90</p> <p>1 A. I'm not aware of any.</p> <p>2 Q. Are such complaints relayed to you or only to</p> <p>3 Mr. Rodriguez?</p> <p>4 A. Well, they wouldn't necessarily have been</p> <p>5 directed to me specifically. Mr. Rodriguez would</p> <p>6 probably have been the first point of contact for them</p> <p>7 since he was our point of contact for EIC.</p> <p>8 Q. Are you aware of how many community leaders</p> <p>9 have made similar complaints regarding a lack of notice</p> <p>10 before an EIC mobile station was sent into their</p> <p>11 community?</p> <p>12 A. No, sir.</p> <p>13 THE WITNESS: I'm sorry.</p> <p>14 MR. KEISTER: Object to vague and calls</p> <p>15 for speculation and fails to identify community</p> <p>16 leaders.</p> <p>17 Give me a chance to butt in if I need</p> <p>18 to.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Q. (BY MR. FREEMAN) How has the State responded</p> <p>21 to such complaints about lack of notice?</p> <p>22 MR. KEISTER: Object to vague.</p> <p>23 THE WITNESS: I'm not sure what those</p> <p>24 responses would have been. And, you know, to this one</p> <p>25 the response, as you see in the e-mail, was that they</p>	<p style="text-align: right;">92</p> <p>1 Q. Are you aware of any counties that have</p> <p>2 declined to enter into an agreement to provide EIC</p> <p>3 application services?</p> <p>4 A. I am.</p> <p>5 Q. Isn't it true that of the 79 or so counties</p> <p>6 without driver's licenses -- driver license offices,</p> <p>7 about 25 to 30 have declined to enter into such an</p> <p>8 agreement?</p> <p>9 A. I don't believe that number is accurate now.</p> <p>10 Q. Sorry. My question was sort of compound, so</p> <p>11 let me restate it.</p> <p>12 A. Yeah.</p> <p>13 Q. Approximately how many counties have declined</p> <p>14 to enter into an agreement to provide EIC services?</p> <p>15 A. I believe that number is 18 now.</p> <p>16 Q. And those are all counties that don't have DPS</p> <p>17 offices?</p> <p>18 A. Correct.</p> <p>19 Q. Why have those counties declined to -- why</p> <p>20 have -- sorry. Let me restate.</p> <p>21 What is the reason that those counties</p> <p>22 have given for not wanting to enter into such an</p> <p>23 agreement or provide such services?</p> <p>24 A. Some of those counties have not given us a</p> <p>25 reason, but the few that have believed it was not</p>

JOE PETERS

4/30/2014

24 (Pages 93 to 96)

<p style="text-align: right;">93</p> <p>1 necessary. They didn't have the staff to devote to EIC 2 issuance. 3 Q. And DPS has not offered any resources to 4 assist those counties? 5 A. I'm sorry? 6 Q. DPS has not offered any resources to assist 7 those counties in terms of personnel or financial 8 resources? 9 A. No financial resources and no -- no personnel 10 except that where a county has declined to participate, 11 DPS sends customer service representatives into those 12 counties to ensure that there's an opportunity for 13 county residents to obtain EICs in their county. 14 Q. And that's the mobile station? 15 A. Yes, sir. 16 Q. But those are only available, you said, 17 approximately five days? 18 A. Yes, sir. That's our goal. 19 Q. Five days before -- a total of five days prior 20 to an election? 21 A. Correct. 22 Q. Is there any formal notice, regulation, rule 23 that states that EICs are to be available from fixed 24 county offices as a general matter? 25 MR. KEISTER: Object to form, compound.</p>	<p style="text-align: right;">95</p> <p>1 language TV stations? 2 A. I know that Spanish language TV stations have 3 been granted interviews and have done stories on the 4 EIC process. 5 Q. Any African-American interest radio stations? 6 A. I'm not aware of any. 7 Q. Are there any regulations that authorize the 8 issuance of EICs from DPS offices on Saturdays? 9 A. No regulation, no, sir. 10 Q. And Saturday issuance is not required or 11 authorized by the text of S.B. 14? 12 A. Correct. 13 Q. And so this program could be terminated at any 14 time? 15 A. Correct. 16 Q. Have some DPS officials complained about the 17 issuance of EICs on Saturdays as a waste of resources? 18 A. If they have it hasn't come to me. 19 Q. Who would that go to? 20 A. Well, they may -- a CSR might complain to the 21 local supervisor that they had to work on Saturday. 22 But, you know, I wouldn't hear about that. 23 Q. Is there any rule that your office has 24 established concerning the amount of weekend or evening 25 hours that you've required for EIC issuance?</p>
<p style="text-align: right;">94</p> <p>1 Q. (BY MR. FREEMAN) Is there any formal notice 2 that EICs are to be available from fixed county offices 3 as a general matter? 4 A. What's a formal notice? 5 Q. Regulation, a rule, or any other type of 6 formal approved notice by your office? 7 A. I'm not -- I'm not aware of a formal rule or a 8 regulation. 9 Q. Have you provided any other notice other than 10 your website of the list of fixed county offices where 11 EICs are available? 12 A. Yes. 13 Q. What notice? 14 A. Press releases, we have spreadsheets that 15 indicate those offices where we're going to provide EIC 16 services. 17 Q. Are you aware of any notice particular -- or 18 specific to a particular county office? 19 A. No. 20 Q. Are you aware of any outreach that's been 21 known to TV stations? 22 A. I'm -- I know it's been done because I've seen 23 some of the releases. But as -- when you're talking 24 specifics, I don't have it. 25 Q. Are you aware of any outreach to Spanish</p>	<p style="text-align: right;">96</p> <p>1 A. Rules? 2 Q. Yes. 3 A. No. 4 Q. At any point did DPS consider a rule that 5 would have allowed individuals to obtain an EIC without 6 bringing a certified birth certificate by connecting 7 DPS stations directly to the Department of State Health 8 Services in order to verify birth records? 9 A. There was discussion about that, about the 10 ability and the costs for DPS to have direct access to 11 verify birth certificates. 12 Q. And when did that discussion occur? 13 A. It would be purely a guess, but I think it was 14 in September of 2013. 15 Q. And who was a part of that discussion? 16 A. There were HHSC representatives and DPS 17 representatives at the table. And I don't recall the 18 names of -- of the HHSC representatives. 19 Q. And why was the decision made not to create 20 that direct connection? 21 A. I'm not sure what the -- the issues were with 22 HHSC, but the primary problem was the connectivity and 23 DPS having direct access and the cost of programming 24 that would -- that would allow us to have direct 25 access.</p>

JOE PETERS

4/30/2014

25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 Q. So it would have been possible to connect</p> <p>2 fixed location DPS offices to birth certificate</p> <p>3 records, but it would have required someone to program</p> <p>4 it out; is that correct?</p> <p>5 A. Yes. It would have been technically possible,</p> <p>6 yes.</p> <p>7 Q. And am I correct that this would have allowed</p> <p>8 individuals who don't presently have a birth</p> <p>9 certificate to obtain an EIC without traveling to</p> <p>10 another location to obtain their birth certificate?</p> <p>11 MR. KEISTER: Object to form, calls for</p> <p>12 speculation.</p> <p>13 THE WITNESS: I would say yes.</p> <p>14 Q. (BY MR. FREEMAN) And there was no legal</p> <p>15 impediment to this direct connection, correct?</p> <p>16 A. Right.</p> <p>17 MR. KEISTER: Object to form, calls for a</p> <p>18 legal conclusion or opinion.</p> <p>19 Q. (BY MR. FREEMAN) This rule -- this provision</p> <p>20 was ultimately rejected, correct?</p> <p>21 A. Yes.</p> <p>22 Q. At any point did DPS consider a rule that</p> <p>23 would have permitted individuals seeking an EIC to sign</p> <p>24 an affidavit attesting to their citizenship rather than</p> <p>25 providing a birth certificate?</p>	<p style="text-align: right;">99</p> <p>1 MR. KEISTER: Objection, nonresponsive.</p> <p>2 Please don't assume.</p> <p>3 Q. (BY MR. FREEMAN) Am I correct that the</p> <p>4 regulations -- sorry.</p> <p>5 To your knowledge, your personal</p> <p>6 knowledge, is an individual able to provide this form</p> <p>7 rather than providing a birth certificate when they</p> <p>8 apply for an EIC?</p> <p>9 MR. KEISTER: Objection, form. And, Dan,</p> <p>10 he's not here for his personal audit. He's here for --</p> <p>11 to testify on behalf of DPS. So if you're asking him</p> <p>12 with respect to DPS -- you said personal.</p> <p>13 Q. (BY MR. FREEMAN) With respect to DPS?</p> <p>14 A. Yes.</p> <p>15 Q. It's your testimony that -- are you certain?</p> <p>16 A. No.</p> <p>17 Q. Okay. Would this -- would this form have a</p> <p>18 form number or something else if it had been finalized</p> <p>19 on it?</p> <p>20 A. It appears that it has not been finalized.</p> <p>21 Q. Have you ever seen a finalized version of this</p> <p>22 form?</p> <p>23 A. No. I haven't even seen this form.</p> <p>24 Q. Okay. And the regulations don't allow an</p> <p>25 individual to submit this form in lieu of birth</p>
<p style="text-align: right;">98</p> <p>1 A. I don't recall.</p> <p>2 (Exhibit No. 42 marked.)</p> <p>3 THE REPORTER: Exhibit 42.</p> <p>4 MR. KEISTER: Thank you.</p> <p>5 Q. (BY MR. FREEMAN) Have you seen this document</p> <p>6 before?</p> <p>7 A. I don't think I have.</p> <p>8 Q. Am I correct that this is an affidavit that</p> <p>9 would have allowed an individual to qualify for an</p> <p>10 election certificate by certifying that they were the</p> <p>11 person that they said they were and that they were born</p> <p>12 in a particular place on a particular date?</p> <p>13 MR. KEISTER: Objection, form, calls for</p> <p>14 speculation.</p> <p>15 Q. (BY MR. FREEMAN) Looking at this document</p> <p>16 that you have in front of you, am I correct that this</p> <p>17 document states that it allows an individual to</p> <p>18 establish their identity by providing certain</p> <p>19 information related to date and place of birth?</p> <p>20 A. Yes.</p> <p>21 Q. Is a signed copy of this document presently an</p> <p>22 accepted alternative to providing a birth certificate</p> <p>23 when applying for an EIC?</p> <p>24 A. I assume that it is. I have not seen the</p> <p>25 document.</p>	<p style="text-align: right;">100</p> <p>1 certificate, correct?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. Okay. Do you know when a decision was made</p> <p>4 regarding whether or not this form would be accepted in</p> <p>5 lieu of a birth certificate?</p> <p>6 A. No, sir.</p> <p>7 Q. And so you don't know who made that decision</p> <p>8 as --</p> <p>9 A. That would be accurate.</p> <p>10 Q. And you don't know why that decision was made?</p> <p>11 A. No, sir.</p> <p>12 Q. Would you agree that this form would have</p> <p>13 allowed an individual who doesn't presently possess a</p> <p>14 birth certificate to obtain an EIC without the cost or</p> <p>15 burden of obtaining a birth certificate?</p> <p>16 MR. KEISTER: Objection, form, calls for</p> <p>17 speculation.</p> <p>18 THE WITNESS: No.</p> <p>19 MR. FREEMAN: Sorry. Could you read that</p> <p>20 back?</p> <p>21 THE REPORTER: Sure.</p> <p>22 "Would you agree that this form would</p> <p>23 have allowed an individual who doesn't presently</p> <p>24 possess a birth certificate to obtain an EIC without</p> <p>25 the cost or burden of obtaining a birth certificate?"</p>

JOE PETERS

4/30/2014

26 (Pages 101 to 104)

<p style="text-align: right;">101</p> <p>1 Mr. Keister said, "Objection, form, calls 2 for speculation." 3 Answer, "No." 4 Q. (BY MR. FREEMAN) And why not? 5 MR. KEISTER: Same objection. 6 THE WITNESS: I think it would defeat the 7 purpose of identification and proof of citizenship. 8 Q. (BY MR. FREEMAN) But if a person doesn't have 9 a birth certificate and if this form were allowed, that 10 person wouldn't have to go through the burden of 11 obtaining a birth certificate in order to obtain an 12 EIC, correct? 13 MR. KEISTER: Objection, calls for 14 speculation and no foundation as this form is not 15 adopted. 16 THE WITNESS: Yes. 17 Q. (BY MR. FREEMAN) Okay. Under the present 18 system an individual who lacks an S.B. 14 ID and lacks 19 a birth certificate must first obtain the birth 20 certificate by traveling to a birth certificate office 21 and then must obtain an EIC by traveling to a location 22 where they can apply for an EIC, correct? 23 MR. KEISTER: Objection, form, compound. 24 And to the extent that calls for information with 25 respect to DPS issues, you can testify to that. But</p>	<p style="text-align: right;">103</p> <p>1 Q. Then they have to obtain the birth certificate 2 and then they have to come back to the EIC location, 3 correct? 4 A. Yes. 5 Q. So that's three trips, correct? 6 A. Well, I don't -- it's two trip to the DPS 7 office. 8 Q. And potentially one trip elsewhere to obtain 9 the birth certificate, correct? 10 A. Potentially. 11 Q. Okay. 12 MR. KEISTER: Object, calls for 13 speculation. 14 Q. (BY MR. FREEMAN) And so would permitting an 15 individual to use this affidavit to establish their 16 birth save that individual at least the additional trip 17 back to DPS -- 18 MR. KEISTER: Are you done? 19 Q. (BY MR. FREEMAN) -- to bring their birth 20 certificate? 21 MR. KEISTER: Objection, form, calls for 22 speculation. In addition, Dan, he's here to testify 23 with respect to what is currently DPS policies, and 24 this obviously is not. So this is outside the items 25 that he's here designated to testify about. So I'm</p>
<p style="text-align: right;">102</p> <p>1 testifying with respect to birth certificate issues is 2 outside the scope of the items he's here to testify 3 about. 4 MR. FREEMAN: Let me see if I can 5 rephrase that and avoid that problem then. 6 Q. (BY MR. FREEMAN) An individual who lacks the 7 forms of secondary ID that we discussed earlier must 8 obtain that ID in order to obtain an EIC, correct? 9 MR. KEISTER: Objection, form, calls for 10 speculation. 11 THE WITNESS: Yes. 12 Q. (BY MR. FREEMAN) And then that individual has 13 to travel to a place where EICs are available, correct? 14 A. I don't know what he has to do to get it. 15 Q. Well, no, no. In -- once they have the birth 16 certificate they have to go to an EIC location to 17 obtain an EIC, correct? 18 A. Yes. 19 MR. KEISTER: Objection, form, compound, 20 mischaracterizes previous testimony. 21 Q. (BY MR. FREEMAN) If an individual travels to 22 an office to attempt to obtain an EIC, but they don't 23 bring a birth certificate with them because they don't 24 have it, they won't be able to get the EIC, correct? 25 A. Correct.</p>	<p style="text-align: right;">104</p> <p>1 going to instruct him not to answer. This is all 2 speculation. 3 MR. FREEMAN: Let me see -- 4 MR. KEISTER: Because it's not -- it's 5 not -- 6 MR. FREEMAN: Let's try one more time 7 then. 8 MR. KEISTER: Okay. 9 Q. (BY MR. FREEMAN) Under the current rules, 10 which is within the scope of this deposition, an 11 individual arrives at an EIC station lacking a birth 12 certificate or any other form of secondary 13 identification, they -- a location that issues an EIC, 14 they can't get the EIC, correct? 15 A. Yes. 16 Q. The current rules do not allow an individual 17 to sign an affidavit establishing the same facts as a 18 birth certificate in lieu of providing a birth 19 certificate, correct? 20 A. Yes. 21 Q. And so the current rules would require the 22 individual to return on a second trip to DPS with a 23 birth certificate rather than signing an affidavit, 24 correct? 25 MR. KEISTER: Objection, form, calls for</p>

JOE PETERS

4/30/2014

27 (Pages 105 to 108)

<p style="text-align: right;">105</p> <p>1 speculation, and I believe misstates the rules.</p> <p>2 THE WITNESS: Yes.</p> <p>3 Q. (BY MR. FREEMAN) Thank you.</p> <p>4 During the legislature's consideration of</p> <p>5 S.B. 14, did any legislators request DPS to determine</p> <p>6 the number of registered voters in Texas who lack a</p> <p>7 DPS-issued ID?</p> <p>8 A. I don't know what happened during the -- the</p> <p>9 S.B. 14 discussion and so forth.</p> <p>10 MR. FREEMAN: I believe he's been</p> <p>11 designated specifically for that topic. Am I correct,</p> <p>12 Mr. Keister?</p> <p>13 MR. KEISTER: I believe you had that in</p> <p>14 here, but he's giving you the testimony that he can</p> <p>15 give you, so --</p> <p>16 MR. FREEMAN: Mr. Keister, am I correct</p> <p>17 that Texas has designated Mr. Peters as their witness</p> <p>18 regarding information that DPS provided during the</p> <p>19 legislative process?</p> <p>20 MR. KEISTER: You have the designation</p> <p>21 and he's here to testify, so you can ask him the</p> <p>22 questions.</p> <p>23 MR. FREEMAN: Mr. Keister --</p> <p>24 MR. KEISTER: If you're not happy with</p> <p>25 his answer we can discuss it later, but --</p>	<p style="text-align: right;">107</p> <p>1 or requested from DPS during legislative consideration</p> <p>2 of S.B. 14, correct?</p> <p>3 A. Yes.</p> <p>4 Q. During the legislature's consideration of</p> <p>5 S.B. 14 did any legislators request any information</p> <p>6 from DPS?</p> <p>7 A. Not having been here during that deliberation,</p> <p>8 during that discussion, I'm not personally aware of any</p> <p>9 requests from -- from the legislature of DPS.</p> <p>10 Q. Is the Department of Public Safety aware of</p> <p>11 any request received by the department from the</p> <p>12 legislature during legislative consideration of</p> <p>13 S.B. 14?</p> <p>14 A. Yes.</p> <p>15 Q. But you are not aware?</p> <p>16 A. Correct.</p> <p>17 MR. KEISTER: And by "you," you mean him</p> <p>18 personally, not DPS?</p> <p>19 Q. (BY MR. FREEMAN) I mean you as a witness that</p> <p>20 has been designated by the State of Texas to testify</p> <p>21 regarding this topic.</p> <p>22 MR. KEISTER: Okay.</p> <p>23 Q. (BY MR. FREEMAN) Are you aware; "you," the</p> <p>24 Department of Public Safety, aware of any request</p> <p>25 received by the department from the Texas Legislature</p>
<p style="text-align: right;">106</p> <p>1 MR. FREEMAN: His answer is that he lacks</p> <p>2 all knowledge concerning a topic for which he's been</p> <p>3 designated, correct?</p> <p>4 THE WITNESS: Well, I thought the</p> <p>5 question --</p> <p>6 MR. KEISTER: Hold on. Hold on.</p> <p>7 No, that was not -- that was not his</p> <p>8 answer. And if you want to ask him questions, he will</p> <p>9 answer the questions. If you don't like the answers,</p> <p>10 you can bring that up later, but let's go ahead with</p> <p>11 the question.</p> <p>12 Q. (BY MR. FREEMAN) Do you have any knowledge</p> <p>13 regarding any questions that the legislature may have</p> <p>14 asked DPS during the legislative consideration of</p> <p>15 S.B. 14?</p> <p>16 MR. KEISTER: Objection, vague.</p> <p>17 MR. FREEMAN: Can we go off the record</p> <p>18 for a second?</p> <p>19 MR. KEISTER: Yeah, let's go off the</p> <p>20 record for a second.</p> <p>21 THE REPORTER: Off the record.</p> <p>22 (Discussion off the record.)</p> <p>23 THE REPORTER: Back on the record.</p> <p>24 Q. (BY MR. FREEMAN) We discussed earlier that</p> <p>25 you are prepared to discuss all information provided by</p>	<p style="text-align: right;">108</p> <p>1 during consideration of any prior photographic voter</p> <p>2 identification bill by the legislature?</p> <p>3 A. Yes.</p> <p>4 Q. What requests were received?</p> <p>5 A. I don't recall the specific requests. We were</p> <p>6 asked for a fiscal note and what would it cost to</p> <p>7 implement the provisions of the bill. We were asked</p> <p>8 what impact the provisions of that bill might have on</p> <p>9 DPS and their driver license issuance process.</p> <p>10 Q. Were you ever asked to determine the number of</p> <p>11 registered voters who lack DPS-issued ID?</p> <p>12 A. No, sir.</p> <p>13 Q. Were you ever asked to contribute any data or</p> <p>14 other assistance in -- to a response to such a request?</p> <p>15 A. Yes.</p> <p>16 Q. When was that?</p> <p>17 A. I don't recall the date.</p> <p>18 Q. And was that -- with regard to S.B. 14</p> <p>19 specifically, did DPS provide any assistance in</p> <p>20 responding to a request that DPS or any other agency</p> <p>21 determine the number of registered voters in Texas who</p> <p>22 lack DPS-issued ID?</p> <p>23 A. I'm not aware of the specific dates of the</p> <p>24 request for data.</p> <p>25 Q. Uh-huh.</p>

JOE PETERS

4/30/2014

28 (Pages 109 to 112)

<p style="text-align: right;">109</p> <p>1 A. It may have been during the consideration of 2 S.B. 14 and it could have been after that. I just -- I 3 don't know. 4 Q. Are you aware of any similar request with 5 regard to any earlier photographic voter identification 6 bill? 7 A. You mean earlier than S.B. 14? 8 Q. Yes. 9 A. No, sir. 10 Q. At any time did DPS contribute to any 11 information -- sorry. 12 At any time did DPS contribute any 13 information towards a database match that would have 14 estimated the number of registered voters who lack an 15 S.B. 14-required ID? 16 A. We provided driver's license database 17 information to the office of the Secretary of State. 18 Q. When was that? 19 A. I think there were two occasions, but I don't 20 know either of the dates. 21 Q. Were those before or after S.B. 14 was passed? 22 A. One was after, I'm sure. The other I'm not 23 sure, but I believe it was during. 24 (Exhibit No. 43 marked.) 25 THE REPORTER: Exhibit 43.</p>	<p style="text-align: right;">111</p> <p>1 MR. KEISTER: Objection, form, calls for 2 speculation and assumes facts not in evidence. 3 Q. (BY MR. FREEMAN) You previously testified 4 that DPS provided information for a matching program 5 between SOS registered voters and DPS drivers, correct? 6 A. Yes. 7 Q. And you said that that may have occurred 8 during consideration of S.B. 14, correct? 9 A. Yes. 10 Q. And the date of this e-mail, you said, was 11 February 1st, correct? 12 A. Yes. 13 Q. And that's before S.B. 14 was passed, correct? 14 A. Yes. 15 Q. And this e-mail indicates that some match was 16 performed between total voters in the State of Texas 17 and a DPS record, correct? 18 A. Yes. 19 Q. My question is, what type of DPS record did 20 DPS provide in order for SOS to perform that match? 21 MR. KEISTER: Objection, form, calls for 22 speculation, mischaracterizes the evidence presented to 23 this witness. 24 And to the extent you can testify with 25 DPS knowledge what DPS provided to the Secretary of</p>
<p style="text-align: right;">110</p> <p>1 MR. KEISTER: Thank you. 2 Q. (BY MR. FREEMAN) Have you ever seen this 3 document before? 4 A. No, sir. I don't -- can't say that I have. 5 Q. What does this document appear to be? 6 A. It appears to be an e-mail from Ann McGeehan 7 to Ann McGeehan and Karen Richards, with Lee Guyette 8 and John Mendoza copied on February 1st of 2011. 9 Q. And are any of those individuals employed by 10 DPS? 11 A. I'm sorry? 12 Q. Are any of those individuals employed by DPS? 13 A. They don't look familiar to me. 14 Q. If you go to the second page, do you see the 15 listing of numbers of voters that match a DPS record or 16 do not match a DPS record? 17 A. I see a list that has a total number of voters 18 in the state and then Query 1, "Matching Criteria," the 19 number of voters with no Texas driver's license or ID 20 number and the number of voters that matched a DPS 21 record and the number of voters that did not match a 22 DPS record. 23 Q. Are you aware of what types of records DPS 24 provided in order to allow the Secretary of State's 25 office to conduct this match?</p>	<p style="text-align: right;">112</p> <p>1 State, you're allowed to do that. To the extent you're 2 being requested to testify as to what the Secretary of 3 State did with that knowledge, if DPS does not know, 4 then that's outside what you're designated to testify 5 about, and I'll instruct you not to answer that. 6 Q. (BY MR. FREEMAN) You may answer. 7 A. I don't know what all data -- I know the data 8 that was given to them was from the driver's license 9 database. And as to the specific fields that were 10 provided to the Secretary of State, I don't know. 11 Q. Are you aware of whether DPS provided records 12 from the active DPS database or whether it provided a 13 copy of the jury wheel? 14 A. I believe on one of those occasions the jury 15 wheel was provided to them. And prior to that, I'm not 16 sure what they got. 17 Q. So you don't know if this was the driver's 18 license database or was the jury wheel with regard to 19 this particular match? 20 MR. KEISTER: Objection, form, calls for 21 speculation, mischaracterizes the previous testimony. 22 There's no foundation, no evidence that the information 23 this witness has talked about is the information that 24 was used by the Secretary of State. 25 THE WITNESS: Okay. The question --</p>

JOE PETERS

4/30/2014

29 (Pages 113 to 116)

<p style="text-align: right;">113</p> <p>1 Q. (BY MR. FREEMAN) You may answer.</p> <p>2 A. The question is?</p> <p>3 Q. With regard to the information that DPS</p> <p>4 provided that the Secretary of State matched in January</p> <p>5 of 2011, are you aware whether that was from the active</p> <p>6 DPS database or whether that was from the jury wheel?</p> <p>7 MR. KEISTER: Same objections.</p> <p>8 THE WITNESS: I'm not aware.</p> <p>9 Q. (BY MR. FREEMAN) Okay. Did DPS help devise</p> <p>10 the comparison algorithm or the -- the match that was</p> <p>11 used between registered voter databases and DPS data?</p> <p>12 A. My understanding is that DPS provided the data</p> <p>13 and had no input otherwise.</p> <p>14 Q. Okay. Are you aware of whether DPS provided</p> <p>15 the ethnicity field from the driver's license database?</p> <p>16 A. I'm not.</p> <p>17 Q. Okay. Are you aware of whether DPS provided</p> <p>18 the expiration date field from the DPS database?</p> <p>19 A. I'm not.</p> <p>20 Q. Did anyone from DPS follow up with the</p> <p>21 Secretary of State's office to determine if the match</p> <p>22 had been completed?</p> <p>23 A. I'm not aware of whether they did or not.</p> <p>24 Q. So, to your knowledge, as -- sorry. To the</p> <p>25 knowledge of the Department of Public Safety and you as</p>	<p style="text-align: right;">115</p> <p>1 A. No.</p> <p>2 Q. -- DPS didn't provide a copy?</p> <p>3 A. No.</p> <p>4 Q. Did DPS make any legislators aware that the</p> <p>5 match had been -- that it had provided data for this</p> <p>6 match?</p> <p>7 A. I'm not aware of any specific notification to</p> <p>8 any legislator that we have provided that data.</p> <p>9 Q. Was a decision made not to inform Texas</p> <p>10 legislators that data had been provided for this match?</p> <p>11 MR. KEISTER: Objection, form.</p> <p>12 Mischaracterizes previous testimony.</p> <p>13 A. I'm not aware.</p> <p>14 Q. (BY MR. FREEMAN) So you don't know -- pardon</p> <p>15 -- the Department of Public Safety does not know when a</p> <p>16 decision was made not to inform legislators that this</p> <p>17 data had been provided?</p> <p>18 MR. KEISTER: Objection, form.</p> <p>19 Argumentative and mischaracterizes the previous</p> <p>20 testimony.</p> <p>21 A. I'm not aware of any such decision that was</p> <p>22 made.</p> <p>23 Q. (BY MR. FREEMAN) Are you aware of any other</p> <p>24 instance in which legislators have requested</p> <p>25 information that DPS -- that DPS had in its possession</p>
<p style="text-align: right;">114</p> <p>1 their designee here, no follow-up was conducted,</p> <p>2 correct?</p> <p>3 MR. KEISTER: Objection, form, vague,</p> <p>4 confusion, calls for speculation.</p> <p>5 MR. FREEMAN: I'm happy to rephrase it.</p> <p>6 MR. KEISTER: Okay.</p> <p>7 Q. (BY MR. FREEMAN) To the knowledge of the</p> <p>8 Department of Public Safety, there was no follow-up</p> <p>9 conducted to determine if this match for which the</p> <p>10 department had provided data had been completed,</p> <p>11 correct?</p> <p>12 MR. KEISTER: Objection, form,</p> <p>13 mischaracterizes the previous testimony, no foundation,</p> <p>14 and calls for speculation.</p> <p>15 THE WITNESS: I'm not aware.</p> <p>16 Q. (BY MR. FREEMAN) Did DPS receive the output</p> <p>17 of the match that was conducted in January 2011?</p> <p>18 A. I'm not aware.</p> <p>19 Q. Was the match that was conducted in January</p> <p>20 of 2011 provided to any Texas legislators during</p> <p>21 consideration of S.B. 14?</p> <p>22 A. I don't know what the Secretary of State's</p> <p>23 office may have provided them, if that's what you're</p> <p>24 asking. I don't know.</p> <p>25 Q. To your knowledge --</p>	<p style="text-align: right;">116</p> <p>1 in which DPS did not provide that information?</p> <p>2 MR. KEISTER: Objection, form.</p> <p>3 Mischaracterizes previous testimony, no foundation as</p> <p>4 respect to you did not establish there was any request,</p> <p>5 argumentative and calls for speculation.</p> <p>6 A. I'm not aware.</p> <p>7 Q. (BY MR. FREEMAN) Are you aware of any</p> <p>8 instance in which a Texas agency has declined to</p> <p>9 provide readily available information to legislators</p> <p>10 who have requested it?</p> <p>11 MR. KEISTER: Objection, form. That's</p> <p>12 outside the scope of the issues you're here to testify</p> <p>13 about. You can testify with respect to the knowledge</p> <p>14 of DPS but not about other agencies.</p> <p>15 A. With respect to DPS I'm not aware of any</p> <p>16 instance where we didn't provide information requested</p> <p>17 by the legislature.</p> <p>18 Q. (BY MR. FREEMAN) Is it ordinary procedure for</p> <p>19 DPS to decline to provide readily available information</p> <p>20 to the legislators who have requested it?</p> <p>21 MR. KEISTER: Object to form,</p> <p>22 argumentative, mischaracterizes previous testimony and</p> <p>23 no foundation.</p> <p>24 A. And your answer is no.</p> <p>25 Q. (BY MR. FREEMAN) Okay. Besides the</p>

JOE PETERS

4/30/2014

30 (Pages 117 to 120)

<p style="text-align: right;">117</p> <p>1 information that we discussed that DPS provided to the</p> <p>2 Secretary of State's office and besides information for</p> <p>3 the fiscal note, is there any other information that</p> <p>4 DPS provided to legislators during discussion of S.B.</p> <p>5 14?</p> <p>6 A. Are you talking about documented information?</p> <p>7 Q. Verbal or documented information.</p> <p>8 A. I'm not aware of any other information in</p> <p>9 either form.</p> <p>10 Q. Okay. Are there any other requests to examine</p> <p>11 DPS data that DPS received during consideration of</p> <p>12 prior photographic voter identification bills?</p> <p>13 A. I'm not aware of it.</p> <p>14 Q. Are there any other efforts that DPS conducted</p> <p>15 to analyze registered voters who did not possess or do</p> <p>16 not possess -- sorry. Let me start over.</p> <p>17 Are there any other efforts by DPS that</p> <p>18 were conducted to analyze registered voters who possess</p> <p>19 or do not possess a Texas driver's license?</p> <p>20 MR. KEISTER: Objection, form,</p> <p>21 mischaracterizes previous testimony. No foundation.</p> <p>22 There's been no evidence that the DPS conducted any</p> <p>23 analysis with respect to registered voters.</p> <p>24 A. And DPS did not conduct any kind of analysis</p> <p>25 with respect to registered voters.</p>	<p style="text-align: right;">119</p> <p>1 preclearance of S.B. 14 under Section 5 of the Voting</p> <p>2 Rights Act, did Texas make any attempt to determine the</p> <p>3 number of registered voters in Texas who lack a</p> <p>4 DPS-issued ID?</p> <p>5 MR. KEISTER: Object to form. To the</p> <p>6 extent you can testify or answer that question with</p> <p>7 respect to DPS only, that's what you're here designated</p> <p>8 to testify about.</p> <p>9 A. With respect to DPS the answer is no.</p> <p>10 Q. (BY MR. FREEMAN) Did DPS provide any</p> <p>11 information in support of any such effort?</p> <p>12 MR. KEISTER: Objection, vague.</p> <p>13 Q. (BY MR. FREEMAN) Did DPS provide any</p> <p>14 information in support of any attempt to determine the</p> <p>15 number of registered voters in Texas who lack a</p> <p>16 DPS-issued ID as part of Texas' requests for</p> <p>17 administrative preclearance of S.B. 14 under Section 5</p> <p>18 of the Voting Rights Act?</p> <p>19 A. I'm not aware of those requests. There may</p> <p>20 have been some. I'm not informed.</p> <p>21 Q. So you're not aware of any information that</p> <p>22 DPS provided to facilitate a database match during the</p> <p>23 administrative preclearance process?</p> <p>24 A. Correct.</p> <p>25 Q. And so on behalf of DPS you're testifying you</p>
<p style="text-align: right;">118</p> <p>1 Q. (BY MR. FREEMAN) Did DPS receive any other</p> <p>2 request for information from the Texas Legislature</p> <p>3 related to earlier voter identification bills.</p> <p>4 MR. KEISTER: Objection, form.</p> <p>5 Mischaracterizes previous testimony, no foundation.</p> <p>6 There's been no evidence that the legislature requested</p> <p>7 any information from -- I missed it -- would you read</p> <p>8 back the question? Maybe I misunderstood it.</p> <p>9 THE REPORTER: Sure. Question, "Did DPS</p> <p>10 receive any other request for information from the</p> <p>11 Texas Legislature related to earlier voter</p> <p>12 identification bills?"</p> <p>13 MR. KEISTER: I'm sorry. I was wrong.</p> <p>14 I'll withdraw those objections.</p> <p>15 A. Okay. And the question was, once more?</p> <p>16 Q. (BY MR. FREEMAN) Did DPS receive any other</p> <p>17 request for information or data from the Texas</p> <p>18 Legislature related to earlier voter identification</p> <p>19 bills?</p> <p>20 A. If they did I'm not aware of it.</p> <p>21 Q. And did DPS provide the Texas Legislature with</p> <p>22 any other information related to pre-S.B. 14 voter</p> <p>23 identification bills?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. As part of Texas' request for administrative</p>	<p style="text-align: right;">120</p> <p>1 have no knowledge whatsoever of information DPS</p> <p>2 provided during the administrative preclearance</p> <p>3 process, correct?</p> <p>4 A. Correct.</p> <p>5 MR. KEISTER: And I'll object to that's</p> <p>6 vague and misstates his previous testimony. I think</p> <p>7 the confusion may be, counsel, that you're tying it to</p> <p>8 preclearance and assuming that DPS was aware that the</p> <p>9 information they provided was for the preclearance.</p> <p>10 He's already testified about the database</p> <p>11 information -- I'm assuming that's what you're going</p> <p>12 for -- that has been provided. If that's -- just so</p> <p>13 there's a clear record. I think he was confused. I</p> <p>14 mean, I'm sorry, you know, I'll stay off of it.</p> <p>15 Q. (BY MR. FREEMAN) During the period in which</p> <p>16 Texas was requesting administrative preclearance of</p> <p>17 S.B. 14, did DPS provide any information that was used</p> <p>18 to conduct a database match of registered voters in</p> <p>19 order to determine whether those registered voters</p> <p>20 possessed DPS-issued ID?</p> <p>21 A. DPS did provide data to the Secretary of</p> <p>22 State's office at some point during the consideration</p> <p>23 of S.B. 14 and whether or not -- and then some after</p> <p>24 S.B. 14, but whether those dates corresponded with</p> <p>25 preclearance, I don't know. I don't know the dates.</p>

JOE PETERS

4/30/2014

31 (Pages 121 to 124)

<p style="text-align: right;">121</p> <p>1 Q. What databases were provided during the</p> <p>2 post-passage period?</p> <p>3 A. Data from the driver license system database.</p> <p>4 Q. Not the license-to-carry database?</p> <p>5 A. Not the what?</p> <p>6 Q. Not the license-to-carry database?</p> <p>7 A. I'm not aware of what was provided by</p> <p>8 license-to-carry. Not my division.</p> <p>9 Q. What information was provided from the</p> <p>10 driver's license database?</p> <p>11 A. I don't know the specific fields that were</p> <p>12 provided.</p> <p>13 Q. Are you aware of whether this was the live</p> <p>14 database or the jury wheel database?</p> <p>15 A. If I remember correctly, it was some of both.</p> <p>16 One time it was the jury wheel database and I believe</p> <p>17 another time from the live database.</p> <p>18 Q. And you don't know which is which?</p> <p>19 A. I don't know which is which.</p> <p>20 Q. Did DPS help devise the matching protocol?</p> <p>21 A. No, sir, not that I'm aware of.</p> <p>22 Q. Do you know what the matching protocol was?</p> <p>23 A. No, sir.</p> <p>24 Q. Did you provide any racial data?</p> <p>25 A. I don't know what fields we provided.</p>	<p style="text-align: right;">123</p> <p>1 THE REPORTER: Exhibit 44.</p> <p>2 (Exhibit 44 marked.)</p> <p>3 MR. KEISTER: Thank you.</p> <p>4 Q. (BY MR. FREEMAN) Are you aware of whether in</p> <p>5 the post-passage period DPS provided data once or twice</p> <p>6 or more than that to SOS for an analysis?</p> <p>7 A. It's my recollection that we provided data</p> <p>8 once after passage, post-passage.</p> <p>9 Q. Have you seen this document before?</p> <p>10 A. I have not.</p> <p>11 Q. Who is Charles Moon?</p> <p>12 A. I don't know who Charles Moon is.</p> <p>13 Q. Am I correct that Charles Moon works for DPS?</p> <p>14 A. Yes, sir, based on what I see in the e-mail</p> <p>15 string as a DPS e-mail address.</p> <p>16 Q. Who is Vanisree Madipadga?</p> <p>17 A. I don't know.</p> <p>18 Q. Who is Enrique Gomez?</p> <p>19 A. Enrique Gomez is a former DPS employee.</p> <p>20 Q. And what was Enrique Gomez's position at DPS?</p> <p>21 A. He was in the information-technology division.</p> <p>22 Q. Do you know what his position was in the</p> <p>23 information technology position?</p> <p>24 A. He was a senior manager, but I don't know -- I</p> <p>25 don't recall -- I don't recall what his specific duties</p>
<p style="text-align: right;">122</p> <p>1 Q. But DPS does have an ethnicity field, correct,</p> <p>2 in the driver's license database?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did DPS follow up to determine if a match had</p> <p>5 been completed successfully?</p> <p>6 A. I'm not aware that we did.</p> <p>7 Q. Did DPS receive the output of this match?</p> <p>8 A. I'm not aware that we did, I mean, if you're</p> <p>9 talking directly from Secretary of State. We became</p> <p>10 aware of it.</p> <p>11 Q. When did you become aware of it?</p> <p>12 A. I would assume it was shortly after it was</p> <p>13 conducted, but I don't know the date.</p> <p>14 Q. And what information did you receive</p> <p>15 concerning the completed match?</p> <p>16 A. Was that the completed match indicated that</p> <p>17 there were something over 700,000 potential voters in</p> <p>18 Texas that did not have photo ID.</p> <p>19 Q. Did you act on that match in any way?</p> <p>20 A. I'm sorry?</p> <p>21 Q. Did you act on that information in any way?</p> <p>22 A. No, sir.</p> <p>23 Q. Do you have any information, either positive</p> <p>24 or negative, regarding the accuracy of that match?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">124</p> <p>1 were.</p> <p>2 Q. Okay. If you go to the last page.</p> <p>3 A. Uh-huh.</p> <p>4 Q. When this says, "Forward jury wheel FTP</p> <p>5 address," does that suggest to you in any way that DPS</p> <p>6 provided the jury wheel information for that match?</p> <p>7 A. It would.</p> <p>8 Q. What is the jury wheel?</p> <p>9 A. That's a list of holders of driver licenses</p> <p>10 and Texas ID cards that are provided to counties from</p> <p>11 which they select their jury panels.</p> <p>12 Q. How does that differ from the driver's license</p> <p>13 or ID database?</p> <p>14 A. It comes from the driver's license and ID</p> <p>15 database.</p> <p>16 Q. What is the distinction between the jury wheel</p> <p>17 database and -- the jury wheel and the driver's license</p> <p>18 and ID database?</p> <p>19 A. The number or the fields that are actually</p> <p>20 transmitted to the counties for jury wheel purposes.</p> <p>21 Q. Are there any records that are present in the</p> <p>22 driver's license or ID database that are eliminated for</p> <p>23 purposes of creating the jury wheel?</p> <p>24 A. I don't believe they get the Social Security</p> <p>25 numbers. And I'm not sure what all goes on the jury</p>

JOE PETERS

4/30/2014

32 (Pages 125 to 128)

<p style="text-align: right;">125</p> <p>1 wheel.</p> <p>2 Q. Does license expiration go on the jury wheel?</p> <p>3 A. I don't know.</p> <p>4 Q. Are you aware of whether expired IDs are at</p> <p>5 any point expunged from the driver's license database?</p> <p>6 A. They could be after some period of time but --</p> <p>7 Q. Are you certain that that is the regular</p> <p>8 practice of DPS?</p> <p>9 A. Well, they're not automatically expunged. If</p> <p>10 some situation arises where -- I know in the case of</p> <p>11 driver licenses we'll get a request every now and then</p> <p>12 for a specific driver license number; and if that</p> <p>13 driver license number has not been issued in a period</p> <p>14 of five years, been inactive for five years, then we</p> <p>15 will reissue that driver's license number. And I'm</p> <p>16 assuming we do the same for an ID card.</p> <p>17 Q. But it's not the regular practice of DPS to --</p> <p>18 A. No, sir.</p> <p>19 Q. -- eliminate records from the database?</p> <p>20 A. Correct.</p> <p>21 Q. And the jury wheel, does that include those</p> <p>22 individuals with expired IDs or all individuals in the</p> <p>23 DPS database?</p> <p>24 A. I don't know but -- well, I can't answer the</p> <p>25 question. I don't know.</p>	<p style="text-align: right;">127</p> <p>1 Q. And as we've already discussed, you can't vote</p> <p>2 with an ID, under S.B. 14, that's expired more than 60</p> <p>3 days, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Go to Page 7. I'm sorry. Page 10.</p> <p>6 A. 10.</p> <p>7 Q. 10. Do you see the discussion of, in the last</p> <p>8 e-mail, bad characters?</p> <p>9 A. I'm sorry, the last -- the one at the bottom?</p> <p>10 Q. The one from John Mendoza to Charles Moon?</p> <p>11 A. Uh-huh.</p> <p>12 Q. November 7th, 2011, at 4:05 p.m.?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Do you see that the records suggest that there</p> <p>15 are "bad characters" within certain records?</p> <p>16 A. Yes.</p> <p>17 Q. What does that mean?</p> <p>18 A. It means that -- to me, it means that --</p> <p>19 MR. KEISTER: Don't testify as to what it</p> <p>20 means to you.</p> <p>21 THE WITNESS: Okay.</p> <p>22 MR. KEISTER: If you know what it means</p> <p>23 to the DPS.</p> <p>24 THE WITNESS: I don't.</p> <p>25 MR. KEISTER: Yeah, and Dan, this -- I</p>
<p style="text-align: right;">126</p> <p>1 Q. When is the jury wheel list created?</p> <p>2 A. It's created annually.</p> <p>3 Q. When in the year?</p> <p>4 A. I don't know.</p> <p>5 Q. So you don't know if the jury wheel list is at</p> <p>6 any point a collection of individuals who have a valid</p> <p>7 Texas driver's license or ID, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know why DPS provided the jury wheel</p> <p>10 rather than extract to the driver's license database?</p> <p>11 A. No, sir.</p> <p>12 Q. If you go to the prior page, Page 11. To your</p> <p>13 knowledge are all these fields present in the jury</p> <p>14 wheel?</p> <p>15 A. Well, as I testified earlier, I don't know</p> <p>16 what all the fields were that were provided, but the</p> <p>17 e-mail indicates that the county, the first, middle,</p> <p>18 and last name of the individual and Social Security</p> <p>19 number, the gender, the DL and ID number and issue</p> <p>20 date, the date of birth, and the ethnicity.</p> <p>21 Q. So am I correct that -- that no address fields</p> <p>22 were provided for this match?</p> <p>23 A. None indicated in this e-mail.</p> <p>24 Q. And no expiration dates?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">128</p> <p>1 don't think these issues were designated or that</p> <p>2 Mr. Peters was designated to talk about database or</p> <p>3 jury wheel or these type of issues. This is getting</p> <p>4 pretty technical. He's not -- he's not the technical</p> <p>5 person that could answer these questions.</p> <p>6 MR. FREEMAN: He was designated regarding</p> <p>7 the information that DPS provided.</p> <p>8 MR. KEISTER: I know. What you're</p> <p>9 getting into, you're getting into technical computer</p> <p>10 fields and -- so I mean, I don't see a topic that this</p> <p>11 falls under.</p> <p>12 I mean, I'm not saying you can't talk to</p> <p>13 him about it. I'm just letting you know he's not the</p> <p>14 person that should be answering any technical computer</p> <p>15 questions.</p> <p>16 Q. (BY MR. FREEMAN) So are you aware of why</p> <p>17 these bad characters were present in DPS databases?</p> <p>18 A. No, sir.</p> <p>19 Q. If you go to the first page of the database --</p> <p>20 or of the e-mails I'm sorry. Second e-mail. Reading</p> <p>21 this, am I correct the DPS eventually provided its</p> <p>22 complete jury wheel without any major filters for</p> <p>23 duplicates, deceased individuals, or individuals too</p> <p>24 young to be registered voters?</p> <p>25 MR. KEISTER: Objection, form. Calls for</p>

JOE PETERS

4/30/2014

33 (Pages 129 to 132)

<p style="text-align: right;">129</p> <p>1 speculation.</p> <p>2 Q. (BY MR. FREEMAN) Does this e-mail provide the</p> <p>3 list of filters that were applied to the jury wheel</p> <p>4 database in order for -- to provide a copy of the jury</p> <p>5 wheel to SOS for purposes of conducting a match?</p> <p>6 MR. KEISTER: Objection, form. Calls for</p> <p>7 speculation.</p> <p>8 A. Am I aware of what now?</p> <p>9 Q. (BY MR. FREEMAN) Does this e-mail provide the</p> <p>10 list of the --</p> <p>11 A. And you're referring specifically to --</p> <p>12 Q. I'm referring to the December 9th, 2011, 4:33</p> <p>13 p.m. e-mail.</p> <p>14 A. Okay.</p> <p>15 Q. From Enrique Gomez to Lee Guyette.</p> <p>16 A. Okay.</p> <p>17 Q. Am I correct that this sets out the filters</p> <p>18 that were applied to the jury wheel when the jury wheel</p> <p>19 was provided to SOS, correct?</p> <p>20 A. That's my understanding, yes, sir.</p> <p>21 Q. And there's no filter for duplicate records,</p> <p>22 correct?</p> <p>23 A. For which records?</p> <p>24 Q. Duplicate records.</p> <p>25 MR. KEISTER: Objection, form. Calls for</p>	<p style="text-align: right;">131</p> <p>1 that there was no analysis done by DPS. You're asking</p> <p>2 him?</p> <p>3 MR. FREEMAN: He's been designated by DPS</p> <p>4 for DPS, all knowledge that DPS has regarding all</p> <p>5 analyses.</p> <p>6 MR. KEISTER: Correct.</p> <p>7 MR. FREEMAN: Not all analyses conducted</p> <p>8 by DPS but all knowledge DPS has regarding analyses.</p> <p>9 MR. KEISTER: Well --</p> <p>10 MR. FREEMAN: It says "all analyses."</p> <p>11 MR. KEISTER: Be that as it may, he is</p> <p>12 going to testify about knowledge that DPS has. If it's</p> <p>13 outside DPS knowledge, he's not going to testify about</p> <p>14 it.</p> <p>15 With respect to these technical issues,</p> <p>16 he's not been designated to testify to them, and I'm</p> <p>17 going to instruct him not to answer.</p> <p>18 MR. FREEMAN: Are you stating that DPS</p> <p>19 doesn't have knowledge --</p> <p>20 MR. KEISTER: I'm not --</p> <p>21 MR. FREEMAN: -- regarding e-mails that</p> <p>22 were sent by a DPS employee?</p> <p>23 MR. KEISTER: You can ask him all you</p> <p>24 want to about the e-mail, but you're not going to get</p> <p>25 into specific computer issues with him that he's not</p>
<p style="text-align: right;">130</p> <p>1 speculation. And, Dan, this is outside the issues he's</p> <p>2 been designated for. I mean, he can testify generally,</p> <p>3 but if you're asking him for specific fields and for</p> <p>4 expert testimony I'm going to instruct him not to</p> <p>5 answer, unless you can identify something that he's</p> <p>6 been designated under. I don't see anything.</p> <p>7 MR. FREEMAN: Mr. Keister, he's been</p> <p>8 designated as the Department of Public Safety's witness</p> <p>9 regarding analysis that was conducted during</p> <p>10 preclearance.</p> <p>11 MS. MURPHY-DARVEAU: DPS did not conduct</p> <p>12 any analysis during preclearance.</p> <p>13 MR. KEISTER: Correct.</p> <p>14 MS. MURPHY-DARVEAU: So that's outside the</p> <p>15 scope of what's in the notice.</p> <p>16 MR. KEISTER: But I'm sure if you</p> <p>17 certified it we could provide it if you need any</p> <p>18 technical testimony. But this is beyond the scope.</p> <p>19 MR. FREEMAN: He's been designated</p> <p>20 regarding "All analyses of registered voters, including</p> <p>21 racial demographics" who do not possess or -- "who</p> <p>22 possess or do not possess a Texas driver license,</p> <p>23 personal identification card or license to carry a</p> <p>24 concealed handgun."</p> <p>25 MR. KEISTER: And the testimony has been</p>	<p style="text-align: right;">132</p> <p>1 qualified to answer. You're going to get a wrong</p> <p>2 answer and it's a waste of time. Or you may get a</p> <p>3 wrong answer and it's a waste of time, and he's not</p> <p>4 designated for it .</p> <p>5 So don't answer it.</p> <p>6 Q. (BY MR. FREEMAN) Are you aware of the</p> <p>7 matching protocol that was conducted using DPS data for</p> <p>8 the match that was conducted on the jury wheel</p> <p>9 information provided and described in these e-mails?</p> <p>10 MR. KEISTER: Object to form. Calls for</p> <p>11 speculation. And no foundation.</p> <p>12 Q. (BY MR. FREEMAN) Let me try and rephrase.</p> <p>13 Are you aware of the matching protocol</p> <p>14 that was used to compare Texas driver's license</p> <p>15 information to the DPS information described in this</p> <p>16 exhibit?</p> <p>17 MR. KEISTER: Objection, form. Calls for</p> <p>18 speculation. Mischaracterizes previous testimony in</p> <p>19 that there's been no evidence that DPS conducted a</p> <p>20 match.</p> <p>21 Q. (BY MR. FREEMAN) My question is, are you</p> <p>22 aware of any analysis or match conducted by anyone</p> <p>23 using the information that DPS provided?</p> <p>24 A. No, I don't know what was done with the data</p> <p>25 that we provided.</p>

JOE PETERS

4/30/2014

34 (Pages 133 to 136)

<p style="text-align: right;">133</p> <p>1 Q. Are you aware of the output of that match?</p> <p>2 A. I have been advised that there were a match</p> <p>3 conducted by the office of the Secretary of State or</p> <p>4 whoever did it for them. And I was made aware of those</p> <p>5 results.</p> <p>6 Q. And what were those results?</p> <p>7 A. That there were over 700,000 registered voters</p> <p>8 out there that may not have a photo ID.</p> <p>9 Q. And that was over 700,000 voters who could not</p> <p>10 be matched to records provided by DPS?</p> <p>11 A. Without a clear understanding of how the match</p> <p>12 was made, I don't know.</p> <p>13 Q. After Texas declared that it would begin</p> <p>14 implementing S.B. 14, did it conduct another attempt to</p> <p>15 determine which registered voters had a Texas driver's</p> <p>16 license or ID card?</p> <p>17 MR. KEISTER: Object to form. To the</p> <p>18 extent it's asking about DPS specifically, you can</p> <p>19 answer that question.</p> <p>20 Q. (BY MR. FREEMAN) My question relates to DPS'</p> <p>21 knowledge of any analysis conducted by the State of</p> <p>22 Texas or any of its departments or agencies.</p> <p>23 MR. KEISTER: To the extent that's not</p> <p>24 going to violate any attorney/client discussions or</p> <p>25 your attorney/client communications you can answer, but</p>	<p style="text-align: right;">135</p> <p>1 Q. After Texas began implementing S.B. 14, you're</p> <p>2 not aware of whether it was jury wheel data or live</p> <p>3 driver's license database?</p> <p>4 A. After we began issuing EICs?</p> <p>5 Q. Yes.</p> <p>6 A. I'm not aware that we provided any data after</p> <p>7 that date.</p> <p>8 Q. So in July 2013 you're not aware of whether</p> <p>9 DPS provided any data for any analysis?</p> <p>10 A. I'm not aware that it was that date.</p> <p>11 Q. Are you aware of what fields DPS provided for</p> <p>12 any analysis after the State of Texas began</p> <p>13 implementing S.B. 14?</p> <p>14 A. No, sir.</p> <p>15 Q. Are you aware whether DPS helped devise the</p> <p>16 matching protocol?</p> <p>17 MR. KEISTER: Object to form. Calls for</p> <p>18 speculation and vague.</p> <p>19 There's no evidence that they did.</p> <p>20 MR. FREEMAN: Can we take a break?</p> <p>21 THE REPORTER: Off the record.</p> <p>22 (Discussion off the record.)</p> <p>23 THE REPORTER: Back on the record.</p> <p>24 Q. (BY MR. FREEMAN) Mr. Peters, you were</p> <p>25 designated on Topic 19 that we discussed earlier,</p>
<p style="text-align: right;">134</p> <p>1 this is strictly with respect to DPS knowledge.</p> <p>2 A. Am I aware?</p> <p>3 Q. (BY MR. FREEMAN) Yes.</p> <p>4 A. Yes.</p> <p>5 Q. When did it conduct that analysis?</p> <p>6 A. I don't know the date.</p> <p>7 Q. When did DPS --</p> <p>8 A. Well, DPS did not conduct an analysis.</p> <p>9 Q. When did DPS provide information to be used in</p> <p>10 such an analysis?</p> <p>11 MR. KEISTER: Object to form. To the</p> <p>12 extent this is going to involve anything that's</p> <p>13 attorney/client, do not respond to that.</p> <p>14 A. I don't know.</p> <p>15 Q. (BY MR. FREEMAN) You don't know when the</p> <p>16 Department of Public Safety provided information for an</p> <p>17 analysis of which voters may not have S.B. 14-required</p> <p>18 ID issued by DPS?</p> <p>19 A. Correct.</p> <p>20 Q. Do you know what information DPS provided?</p> <p>21 A. Information from the driver license database.</p> <p>22 Q. Was this the driver -- the live database or</p> <p>23 the jury wheel?</p> <p>24 A. After preclearance was granted I believe it</p> <p>25 was live database, but I'm not sure.</p>	<p style="text-align: right;">136</p> <p>1 correct?</p> <p>2 A. I got the wrong document.</p> <p>3 Q. It's the last page of that document.</p> <p>4 MR. KEISTER: Let me see it. Here's the</p> <p>5 letter.</p> <p>6 THE WITNESS: That's what I was looking</p> <p>7 for.</p> <p>8 MR. KEISTER: That should be the same as</p> <p>9 what's on there.</p> <p>10 THE WITNESS: Yeah, it is.</p> <p>11 A. Yes, sir.</p> <p>12 Q. (BY MR. FREEMAN) And Topic 19 requests "All</p> <p>13 information or data provided to or requested by the</p> <p>14 Texas Legislature, directly or through another Texas</p> <p>15 agency or official," correct?</p> <p>16 A. Correct.</p> <p>17 Q. And that's all information or data related to</p> <p>18 S.B. 14, S.B. 362 from 2009, H.B. 218 from 2007 or H.B.</p> <p>19 1706 from 2005.</p> <p>20 A. Correct.</p> <p>21 Q. What documents did you review in preparation</p> <p>22 for that specific topic?</p> <p>23 A. Some e-mails. And I don't recall specific --</p> <p>24 any review on S.B. 362 or H.B. 218 or H.B. 1706.</p> <p>25 Q. And reviewing -- in reviewing those e-mails</p>

JOE PETERS

4/30/2014

35 (Pages 137 to 140)

<p style="text-align: right;">137</p> <p>1 related to S.B. 14, did you become aware of any data</p> <p>2 that the State of Texas provided to the office of the</p> <p>3 Secretary of State in order for the office of the</p> <p>4 Secretary of State to respond to requests from the</p> <p>5 Texas Legislature?</p> <p>6 A. I don't know that the Secretary of State was</p> <p>7 responding to a request from the Texas Legislature when</p> <p>8 we provided that data.</p> <p>9 Q. Did you become aware of what that data was</p> <p>10 that you provided to the office of the Secretary of</p> <p>11 State during consideration of S.B. 14?</p> <p>12 A. It was data from the driver license database.</p> <p>13 Q. But you're not aware of what specific fields</p> <p>14 you provided?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. Who in the Department of Public Safety</p> <p>17 would have more information related to that topic?</p> <p>18 A. That would be persons in the information</p> <p>19 technology division.</p> <p>20 Q. Who specifically in the information technology</p> <p>21 division?</p> <p>22 A. I would have to defer to the chief of the</p> <p>23 division to get a name.</p> <p>24 Q. Who is the chief of the division?</p> <p>25 A. Chris Sarandos.</p>	<p style="text-align: right;">139</p> <p>1 Department of Public Safety provided to contribute to</p> <p>2 that analysis, correct?</p> <p>3 MR. KEISTER: Objection, form. Misstates</p> <p>4 previous testimony. Vague. And I think asked and</p> <p>5 answered.</p> <p>6 Q. (BY MR. FREEMAN) Correct?</p> <p>7 A. Yeah, we did provide data from the driver's</p> <p>8 license system.</p> <p>9 Q. And with regard to analyses conducted after</p> <p>10 May 27th and specifically analyses conducted between</p> <p>11 August 31st, 2012 and the present, who did you -- who</p> <p>12 did you discuss -- that's Topic 21. Who did you</p> <p>13 discuss Topic 21 with?</p> <p>14 A. Topic 21?</p> <p>15 Q. Yep.</p> <p>16 A. I can't answer the question with respect to</p> <p>17 the concealed handgun.</p> <p>18 Q. Okay. But with regard to driver's license and</p> <p>19 personal identification card information, who did you</p> <p>20 discuss that topic with?</p> <p>21 A. I don't recall who all I might have discussed</p> <p>22 that with.</p> <p>23 Q. Do you recall anyone?</p> <p>24 A. I believe I discussed that with my -- one of</p> <p>25 my deputy assistant directors.</p>
<p style="text-align: right;">138</p> <p>1 Q. Was Chris Sarandos the chief of the division</p> <p>2 in 2011?</p> <p>3 A. I don't think so. I'm not sure when he came</p> <p>4 on, but he hadn't been there very long. Longer than I</p> <p>5 have but --</p> <p>6 Q. Did you have any other discussion with staff</p> <p>7 regarding specifically Topic 19?</p> <p>8 A. No.</p> <p>9 Q. With regard to Topic 20, am I correct that</p> <p>10 Topic 20 requests information regarding "All analyses</p> <p>11 of registered voters, including racial demographics,</p> <p>12 who possess or do not possess a Texas driver license,</p> <p>13 personal identification card, or license to carry a</p> <p>14 concealed handgun conducted between January 1, 2005 and</p> <p>15 May 27, 2011"?</p> <p>16 A. And you're asking me?</p> <p>17 Q. Am I correct that that topic includes that,</p> <p>18 that subject?</p> <p>19 A. Yes, you are.</p> <p>20 Q. Am I correct that that topic includes analyses</p> <p>21 conducted by the elections division of the Secretary of</p> <p>22 State?</p> <p>23 A. It includes -- by the elections division of</p> <p>24 the Secretary of State, it does.</p> <p>25 Q. But you don't know what information the</p>	<p style="text-align: right;">140</p> <p>1 Q. Who was that?</p> <p>2 A. Would have been Paul Watkins.</p> <p>3 Q. Would Paul Watkins be aware of the specific</p> <p>4 information that DPS provided to the office of the</p> <p>5 Secretary of State?</p> <p>6 A. Likely not.</p> <p>7 Q. Who would?</p> <p>8 MR. KEISTER: Objection -- objection,</p> <p>9 form. Vague. What information are you referring to?</p> <p>10 Q. (BY MR. FREEMAN) Who would be aware of the</p> <p>11 specific information that DPS provided to the office of</p> <p>12 Secretary of State between August 31st, 2012, and the</p> <p>13 present to contribute to any analysis of the possession</p> <p>14 of Texas driver's license or personal identification</p> <p>15 cards by registered voters?</p> <p>16 A. That would be the information technology</p> <p>17 division staff.</p> <p>18 Q. And that would be the same individual we</p> <p>19 discussed earlier?</p> <p>20 A. Yes.</p> <p>21 Q. What was his name again? I'm sorry.</p> <p>22 A. Chris Sarandos.</p> <p>23 Q. Thank you. Are you aware of whether DPS</p> <p>24 followed up with the office of Secretary of State to</p> <p>25 determine if a match for which it had given data had</p>

JOE PETERS

4/30/2014

36 (Pages 141 to 144)

<p style="text-align: right;">141</p> <p>1 been completed successfully?</p> <p>2 MR. KEISTER: Objection, form.</p> <p>3 Mischaracterizes previous testimony. Vague. No</p> <p>4 foundation. And asked and answered.</p> <p>5 But you can answer it.</p> <p>6 A. I'm not aware.</p> <p>7 Q. (BY MR. FREEMAN) Did DPS receive the output</p> <p>8 of any analysis performed using the data that it</p> <p>9 provided after August 31st, 2012?</p> <p>10 A. I'm not aware that DPS received a formal</p> <p>11 notification of the output. We were made aware of what</p> <p>12 the output was.</p> <p>13 Q. What was the output?</p> <p>14 A. As I testified earlier, I believe the output</p> <p>15 was that there were over 700,000 potential voters out</p> <p>16 there that did not have an ID or a driver's license.</p> <p>17 Q. That was the output of the analysis performed</p> <p>18 after August 31, 2012?</p> <p>19 A. Oh, now, I'm not sure about the number -- I</p> <p>20 mean, the date and that number on a specific date.</p> <p>21 Q. Are you aware of whether there were different</p> <p>22 outputs of different analyses that were performed</p> <p>23 during -- or using DPS data?</p> <p>24 A. No, sir.</p> <p>25 Q. Who would be?</p>	<p style="text-align: right;">143</p> <p>1 A. Okay. And now the question was?</p> <p>2 Q. (BY MR. FREEMAN) Did DPS provide data more</p> <p>3 than once after August 31st, 2012, for the purpose of</p> <p>4 allowing S.B. 14 analysis to be conducted?</p> <p>5 MR. KEISTER: Objection, form.</p> <p>6 Mischaracterizes previous testimony. No foundation.</p> <p>7 A. I'm not aware of what data was provided after</p> <p>8 that date.</p> <p>9 Q. (BY MR. FREEMAN) You're not aware of the</p> <p>10 scope of the data or the frequency with which data was</p> <p>11 provided or both?</p> <p>12 A. Both these -- all the above.</p> <p>13 Q. Okay. Are you aware of any future plans for</p> <p>14 DPS to provide data for the purpose of conducting S.B.</p> <p>15 14-related analysis?</p> <p>16 MR. FREEMAN: Don't give any testimony</p> <p>17 with respect to attorney/client information. But to</p> <p>18 the extent there's anything else, you can answer that.</p> <p>19 MR. KEISTER: If there is.</p> <p>20 Q. (BY MR. FREEMAN) You're not aware?</p> <p>21 A. No.</p> <p>22 Q. Okay. All right. One last topic and then</p> <p>23 you're done with me. Are Texas driver's licenses</p> <p>24 available to individuals who are not U.S. citizens?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">142</p> <p>1 A. I would assume the Secretary of State would</p> <p>2 have known if they conducted the analysis.</p> <p>3 Q. Who in DPS would have been made aware of that</p> <p>4 information?</p> <p>5 MR. KEISTER: Object to form. Calls for</p> <p>6 speculation. Mischaracterizes previous testimony.</p> <p>7 A. I don't know.</p> <p>8 Q. (BY MR. FREEMAN) Are you aware of whether DPS</p> <p>9 provided data more than once since August 31st, 2012,</p> <p>10 with regard to any S.B. 14-related analysis?</p> <p>11 MR. KEISTER: Objection, form.</p> <p>12 Q. (BY MR. FREEMAN) Did DPS become -- provide</p> <p>13 data on more than one occasion in order for S.B.</p> <p>14 14-related analysis to be conducted?</p> <p>15 MR. FREEMAN: I'm also going to object to</p> <p>16 the fact that the witness just looked at a note that</p> <p>17 was passed between counsel while a question was</p> <p>18 pending.</p> <p>19 MR. KEISTER: No, he did not, Dan. I was</p> <p>20 looking at that and I just --</p> <p>21 A. What's your question?</p> <p>22 MR. KEISTER: Hold on. Let me caution</p> <p>23 the witness that anything that has to do with</p> <p>24 litigation or attorney/client information, you are not</p> <p>25 to answer that question.</p>	<p style="text-align: right;">144</p> <p>1 Q. Under what circumstances?</p> <p>2 A. If an applicant is here on a visa or some</p> <p>3 limited term they are still eligible for a driver's</p> <p>4 license restricted to the expiration of their legal</p> <p>5 presence in the U.S.</p> <p>6 Q. Is there any difference in format between a</p> <p>7 driver's license issued to a citizen and a driver's</p> <p>8 license issued to a noncitizen?</p> <p>9 A. No. Not that I'm aware of.</p> <p>10 Q. If an individual has a green card but is not a</p> <p>11 citizen, is there any distinction between the</p> <p>12 expiration of the driver's license of that noncitizen</p> <p>13 and the expiration of a driver's license of a citizen?</p> <p>14 A. The expiration of a driver's license of a</p> <p>15 noncitizen is limited to the term that they're</p> <p>16 permitted to legally be in the U.S.</p> <p>17 Q. But if a noncitizen has an indefinite</p> <p>18 permission to be present there will be no distinction</p> <p>19 in expiration date between their driver's license and a</p> <p>20 citizen's driver's license --</p> <p>21 A. Correct.</p> <p>22 Q. -- is that correct?</p> <p>23 Are Texas ID cards available to</p> <p>24 individuals who are not U.S. citizens?</p> <p>25 A. Yes.</p>

JOE PETERS

4/30/2014

37 (Pages 145 to 148)

<p style="text-align: right;">145</p> <p>1 Q. Same circumstances?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are Texas license to -- licenses to carry a</p> <p>4 concealed handgun available to individuals who are not</p> <p>5 U.S. citizens?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Very quick with this.</p> <p>8 (Exhibit 45 marked.)</p> <p>9 Q. (BY MR. FREEMAN) What is this document?</p> <p>10 A. This appears to be a copy of the Texas</p> <p>11 Administrative Code Title 37, Chapter 15, Subchapter</p> <p>12 (b).</p> <p>13 Q. Section 15.46?</p> <p>14 A. Section 15.46.</p> <p>15 Q. Have you seen this document before?</p> <p>16 A. Well, not this particular document, excuse me.</p> <p>17 I have seen the rule.</p> <p>18 Q. Okay. Am I correct that this document states,</p> <p>19 "An applicant for a driver's license or ID must provide</p> <p>20 information relating to their United States</p> <p>21 citizenship"?</p> <p>22 A. Yes.</p> <p>23 Q. How is this regulation applied with regard to</p> <p>24 individuals who are noncitizens and apply for a Texas</p> <p>25 driver's license or ID card?</p>	<p style="text-align: right;">147</p> <p>1 Q. Are there any other guidelines, regulations,</p> <p>2 policies or procedures specific to the ability of a</p> <p>3 noncitizen to obtain a Texas driver's license or</p> <p>4 personal identification card?</p> <p>5 A. Let me hear the question again.</p> <p>6 Q. Are there any other guidelines, regulations,</p> <p>7 policies or procedures that specifically apply to the</p> <p>8 ability of noncitizens to obtain a Texas driver's</p> <p>9 license or personal identification card?</p> <p>10 A. Not that I'm aware of.</p> <p>11 MR. FREEMAN: Okay. I pass the witness.</p> <p>12 MR. KEISTER: Lunch?</p> <p>13 THE REPORTER: Off the record?</p> <p>14 MR. KEISTER: Yeah.</p> <p>15 (Lunch Recess from 12:16 to 12:44 p.m.)</p> <p>16 THE REPORTER: Back on the record.</p> <p>17 EXAMINATION</p> <p>18 BY MR. BRAZIL:</p> <p>19 Q. Good afternoon.</p> <p>20 A. Good afternoon.</p> <p>21 Q. I've got a few areas that I want to cover with</p> <p>22 you before the other gentlemen have a turn as well.</p> <p>23 And I speak very slowly so give me an opportunity to</p> <p>24 finish my question before you give an answer. And I'll</p> <p>25 try to be very precise with my questions. That way we</p>
<p style="text-align: right;">146</p> <p>1 A. I'm not sure I understand your question.</p> <p>2 Q. Am I correct that this states that an</p> <p>3 applicant must provide information relating to their</p> <p>4 United States citizenship?</p> <p>5 A. Correct.</p> <p>6 Q. What if an applicant is not a United States</p> <p>7 citizen?</p> <p>8 A. Then they have to provide proof of lawful</p> <p>9 presence.</p> <p>10 Q. Okay. So this -- this regulation does not</p> <p>11 apply to U.S. -- to non-U.S. citizens, correct?</p> <p>12 MR. KEISTER: Objection, calls for legal</p> <p>13 conclusion and legal opinion.</p> <p>14 A. I don't know.</p> <p>15 Q. (BY MR. FREEMAN) Okay. Is there any way for</p> <p>16 an individual to know from the face of a Texas driver's</p> <p>17 license, personal identification -- or personal</p> <p>18 identification card that the carrier is a U.S. citizen?</p> <p>19 A. Not that I'm aware of.</p> <p>20 Q. Are there any current valid driver's licenses</p> <p>21 or ID cards in circulation that don't distinguish</p> <p>22 between citizens and noncitizens?</p> <p>23 A. That don't distinguish?</p> <p>24 Q. That's correct.</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">148</p> <p>1 can get in, get out, and move on. Okay?</p> <p>2 A. Yes, sir.</p> <p>3 Q. If you do not understand one of my questions</p> <p>4 just say, "Scott, slow down," or, "Stop, back up,"</p> <p>5 whatever. Fair enough?</p> <p>6 A. Yes, sir. Yes, sir.</p> <p>7 Q. I want to understand -- I like things simple.</p> <p>8 I would like to understand and can you help me</p> <p>9 understand the driver's license database. I understand</p> <p>10 from your testimony that the jury wheel is a part of</p> <p>11 the driver's license database; is that correct?</p> <p>12 A. The data for the jury wheel comes from the</p> <p>13 driver license database, correct.</p> <p>14 Q. So is there a master database that is</p> <p>15 maintained by DPS?</p> <p>16 A. With respect to driver's license?</p> <p>17 Q. Yes.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. And is there -- are there other</p> <p>20 databases maintained by DPS other than the driver's</p> <p>21 license database?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. And what are those?</p> <p>24 A. There's a criminal history database.</p> <p>25 Q. Okay.</p>

JOE PETERS

4/30/2014

38 (Pages 149 to 152)

<p style="text-align: right;">149</p> <p>1 A. The concealed handgun database. Sex offender 2 registry. Those are the ones that come to mind. 3 Q. Okay. Let's start with the driver's license 4 database. The jury wheel information sent to counties 5 comes from that database, correct? 6 A. Yes, sir. And the jury wheel information is 7 sent to the Secretary of State and then distributed 8 from them to the counties, with a couple of exceptions 9 where the counties -- Dallas County is one, there's a 10 couple of other counties -- that have requested 11 information from the driver's license database in order 12 for the county appraisal districts to determine who's 13 eligible for things such as over-65 exemptions, tax 14 exemption. 15 Q. Did that information flow directly from DPS to 16 the counties or did it go through the Secretary of 17 State? 18 A. No. Goes directly to counties. 19 Q. Okay. So the jury wheel information goes from 20 the DPS to Secretary of State, then to the counties? 21 A. That's my understanding, yes, sir. 22 Q. Now, if we take the DPS database as a whole, 23 what type of categories of information or fields are 24 available? For example, does it break it down by age, 25 race, you know, date of birth? What type of fields?</p>	<p style="text-align: right;">151</p> <p>1 A. Yes, sir, that would be the information 2 technology division. 3 Q. Okay. And who is in charge of that again? 4 A. Chris Sarandos. 5 Q. Okay. Can the DPS do a search by utilizing 6 date of birth or African-American or maybe light or 7 other than white? Can they do searches like that? 8 A. Yes, sir. 9 Q. Now, is the information, if I walked in today 10 to get a driver's license, not a renewal, but just say 11 I turned 16 or came to this state and wanted to get a 12 Texas driver's license, what type of information would 13 be taken from me? 14 A. Your name, your date of birth, your Social 15 Security number, a birth certificate. I don't remember 16 everything on the application. 17 Q. Okay. Would I be asked to check a box under 18 some type of race; for example, Caucasian or 19 African-American or Hispanic or you know? 20 A. Yes, sir. 21 Q. I would? 22 A. Well, you would -- you would -- if I'm not 23 mistaken, you would designate what your race is. And 24 whatever you say, that's what we put in the database. 25 Now --</p>
<p style="text-align: right;">150</p> <p>1 How many different categories are there in the DPS 2 driver's license database? 3 A. I don't know how many separate fields there 4 are. 5 Q. Is it broken down by race, for example? 6 A. Yes, sir. 7 Q. Okay. What about things such as Hispanic 8 surnames or anything more detailed than that? 9 A. There's nothing in the database that would 10 make a Hispanic surname distinguishable other than the 11 name itself, the spelling of the name. 12 Q. Okay. 13 A. But there's not a field that says "this person 14 is Hispanic," if that's what you're asking. 15 Q. Okay. So let me back up. So you couldn't do 16 a search on those individuals who have designated 17 themselves as Hispanic origin, or could you? I mean, 18 can you break it down by Hispanic, African-American, 19 Caucasian, other? 20 A. We can break it down by African-American, 21 white, and I'm not sure how Hispanic is. It may be 22 white, other than Hispanic. I'm not sure. I don't 23 know. 24 Q. Okay. Is there somebody that maintains that 25 database that would be more knowledgeable in that area?</p>	<p style="text-align: right;">152</p> <p>1 Q. So you could -- I'm sorry. Go ahead. 2 A. Go ahead. I'm through. 3 Q. All right. So you could do a search by that? 4 A. Yes. 5 Q. Okay. And when you give the information to 6 the Secretary of State for the jury wheel that goes to 7 each county, is that type of information furnished? 8 A. I'm not sure what all goes to the Secretary of 9 State for a jury wheel. 10 Q. But I mean, does the DPS furnish the racial 11 makeup information to the Secretary of State that is 12 then utilized for the jury wheel? 13 A. I don't know. 14 Q. Okay. Is the designation -- if I walked in 15 today on designating myself as Caucasian or white, has 16 that changed over the last few years? I mean, have you 17 added different races? Have you made those categories 18 more broad or do you know? 19 A. I don't know what changes have been made over 20 the last few years. 21 Q. So those who have had a driver's license for 22 many years may be in the system differently than those 23 who get a driver's license today? 24 A. That's a possibility. 25 Q. Okay. If -- if I renew my driver's license,</p>

JOE PETERS

4/30/2014

39 (Pages 153 to 156)

<p style="text-align: right;">153</p> <p>1 can I do that online?</p> <p>2 A. Depends on your circumstances. If you renewed</p> <p>3 online last time, no, you can't.</p> <p>4 Q. You can only do that every other time?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. If I -- if I'm qualified to renew</p> <p>7 online, do I complete the information in the section</p> <p>8 designated for race?</p> <p>9 A. I don't know.</p> <p>10 Q. Okay. Now, after I've renewed online, I have</p> <p>11 to go back in to renew the next time, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Then would I redesignate or would I be filling</p> <p>14 out a current application or would I be grandfathered</p> <p>15 in under the old information?</p> <p>16 A. You would be filling out an application for</p> <p>17 renewal.</p> <p>18 Q. Okay. Would that be the same as if I was</p> <p>19 getting a new driver's license --</p> <p>20 A. Yes, sir --</p> <p>21 Q. -- the first time?</p> <p>22 A. -- I believe it is.</p> <p>23 MR. KEISTER: Let him completely stop.</p> <p>24 THE WITNESS: Okay. I'm sorry.</p> <p>25 MR. BRAZIL: Very common.</p>	<p style="text-align: right;">155</p> <p>1 makeup of citizens in Texas who have a driver's</p> <p>2 license?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Now, the concealed handgun database, is</p> <p>5 it maintained separately from the driver's license</p> <p>6 database?</p> <p>7 A. It is.</p> <p>8 Q. And why is that?</p> <p>9 A. I don't have a clue.</p> <p>10 Q. Okay. I have a concealed handgun license and</p> <p>11 I have a Texas driver's license, and they're two</p> <p>12 separate cards.</p> <p>13 A. Absolutely.</p> <p>14 Q. Every year I ask why they are not combined.</p> <p>15 Do you know why?</p> <p>16 A. One of the reasons and several members of the</p> <p>17 legislature have asked the same question, but the</p> <p>18 expiration on a concealed handgun license does not</p> <p>19 correspond with the expiration on a driver's license.</p> <p>20 The expiration on a concealed handgun license, as I</p> <p>21 understand it, is five years; and expiration on a</p> <p>22 driver license is six years.</p> <p>23 So there would be -- it would be</p> <p>24 problematic to coordinate the two expirations if we had</p> <p>25 everything on one card. There are efforts afoot from</p>
<p style="text-align: right;">154</p> <p>1 THE WITNESS: I got carried away.</p> <p>2 MR. BRAZIL: Okay.</p> <p>3 THE WITNESS: I was trying to be mindful</p> <p>4 of the airplane schedules here.</p> <p>5 MR. BRAZIL: I understand.</p> <p>6 Q. (BY MR. BRAZIL) I think I remember my</p> <p>7 question.</p> <p>8 For example, if I applied for a driver's</p> <p>9 license in Texas for the very first time today or if I</p> <p>10 applied to renew and I went in to an office to renew,</p> <p>11 would the information be identical --</p> <p>12 A. Yes, sir.</p> <p>13 Q. -- that I would provide?</p> <p>14 A. Yes, sir.</p> <p>15 Q. So --</p> <p>16 A. Except in -- if you've already provided proof</p> <p>17 of residence, proof of citizenship, then you won't have</p> <p>18 to do that again.</p> <p>19 Q. Okay. So if 40 years ago when I first got my</p> <p>20 driver's license they didn't have any categories for</p> <p>21 race, that would change when I renewed today?</p> <p>22 A. That's my understanding.</p> <p>23 Q. Okay. So as the database is updated with</p> <p>24 people that renew in person, that information becomes,</p> <p>25 as I understand it, more current as far as racial</p>	<p style="text-align: right;">156</p> <p>1 certain members of the legislature who would like to</p> <p>2 see that happen. But it hasn't yet.</p> <p>3 Q. Okay. To -- if -- to receive a Texas driver's</p> <p>4 license I have to prove that I am a citizen or here</p> <p>5 with some type of visa, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. If I got a driver's license 20 or 30</p> <p>8 years ago, was it required then?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. So if I'm grandfathered in, I could</p> <p>11 have a Texas driver's license and not be here legally?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay.</p> <p>14 A. Until you come to renew.</p> <p>15 Q. Correct, until I come in to renew. But if I</p> <p>16 come in to renew and I've had a driver's license for 20</p> <p>17 or 30 years, do I have to show proof of citizenship?</p> <p>18 A. Yes, sir.</p> <p>19 Q. I do?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. So I may have misunderstood your answer</p> <p>22 to an earlier question.</p> <p>23 So if I do come in to renew in person, I</p> <p>24 will have to show proof that I'm a legal resident?</p> <p>25 A. Yes, sir.</p>

JOE PETERS

4/30/2014

40 (Pages 157 to 160)

<p style="text-align: right;">157</p> <p>1 Q. All right. Do I have to show the same type of</p> <p>2 proof that I am a legal resident to get a CHL?</p> <p>3 A. I don't know.</p> <p>4 Q. Are you aware that in Texas to obtain a CHL</p> <p>5 you do not have to show that you're a legal citizen?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Okay. What type of information is available</p> <p>8 through the DPS or CHL database that is not available</p> <p>9 in the driver's license database?</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. That would be somebody in the</p> <p>12 information --</p> <p>13 A. That would be somebody from the regulatory</p> <p>14 services division that could answer that question.</p> <p>15 Q. Okay. But it is true that to get a CHL, you</p> <p>16 are fingerprinted?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And a background check is obtained?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. So at least that -- those two steps are</p> <p>21 in addition to getting the driver's license?</p> <p>22 A. That's my understanding.</p> <p>23 Q. Okay. To your knowledge has the Department of</p> <p>24 Public Safety ever provided to the Secretary of State's</p> <p>25 office the CHL database?</p>	<p style="text-align: right;">159</p> <p>1 Secretary of State asks you tomorrow to provide the</p> <p>2 driver's license database. Would it automatically have</p> <p>3 the EIC information in it?</p> <p>4 A. No, sir.</p> <p>5 Q. They would have to specifically say, "We want</p> <p>6 driver's license database and EIC"?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And if they wanted CHL they would have</p> <p>9 to make that specific request as well?</p> <p>10 A. Correct.</p> <p>11 Q. Has the DPS to your knowledge ever matched for</p> <p>12 any purpose that you're aware of -- I know you've only</p> <p>13 been there ten months -- EIC and/or driver's license</p> <p>14 and CHL?</p> <p>15 A. I'm not aware of it.</p> <p>16 Q. When someone applies for an EIC do they</p> <p>17 designate their race?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So you could do a search by Hispanic,</p> <p>20 African-American, Caucasian, to your knowledge with the</p> <p>21 EIC?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, I understand that DPS issues or is the</p> <p>24 agency that issues almost all of the IDs in Texas to</p> <p>25 the various agencies; is that correct?</p>
<p style="text-align: right;">158</p> <p>1 A. I'm not aware of what CHL data has been</p> <p>2 provided to them.</p> <p>3 Q. To your knowledge as you sit here today,</p> <p>4 having maybe read some of the e-mails, has anybody in</p> <p>5 the Secretary of State's office requested the CHL</p> <p>6 database to do any type of matching that you spoke of</p> <p>7 earlier?</p> <p>8 A. Not that I'm aware of.</p> <p>9 MR. KEISTER: Scott, just so you know, we</p> <p>10 do have somebody designated separately on the CHL.</p> <p>11 It's a different program than what Mr. Peters is</p> <p>12 involved with.</p> <p>13 Q. (BY MR. BRAZIL) Where is the EIC information</p> <p>14 maintained by DPS? Is it in the driver's license</p> <p>15 database or is it in a separate database?</p> <p>16 A. It's in a separate database within the</p> <p>17 driver's license system.</p> <p>18 Q. So it is a part of the driver's license</p> <p>19 system?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Is the jury wheel information part of</p> <p>22 the driver's license system or is that different?</p> <p>23 A. It's all -- it's part of the driver's license</p> <p>24 system.</p> <p>25 Q. Okay. So if you provide to -- let's say the</p>	<p style="text-align: right;">160</p> <p>1 A. If you're talking about employee</p> <p>2 identification cards for purposes of some specific</p> <p>3 agency requirement, I'm not aware of it. We do issue</p> <p>4 things such as access cards and so forth with some</p> <p>5 identifying data on the card, the employee's name and</p> <p>6 photo.</p> <p>7 Q. Okay. What about, for example, game wardens?</p> <p>8 Do you issue their identification?</p> <p>9 A. We don't issue their -- their department</p> <p>10 identification cards, but we do issue them access</p> <p>11 cards.</p> <p>12 Q. All right. Do any of the databases maintained</p> <p>13 by DPS have a category for registered voter?</p> <p>14 A. I'm sorry. What was the question again?</p> <p>15 Q. Sure do any -- does CHL, the driver's license,</p> <p>16 EIC database, do any of those have a category for</p> <p>17 registered voter?</p> <p>18 A. I'm not aware of what CHL asks for. Driver's</p> <p>19 license asks you if you are and if you want to be. If</p> <p>20 you're not, do you want to be? And the same with an ID</p> <p>21 card.</p> <p>22 Q. Okay. So if I applied for a driver's license</p> <p>23 today, I would check "registered voter"?</p> <p>24 A. Yes, sir.</p> <p>25 Q. So you could do a search by those that have</p>

JOE PETERS

4/30/2014

41 (Pages 161 to 164)

<p style="text-align: right;">161</p> <p>1 designated they're a registered voter?</p> <p>2 A. We wouldn't do the search that they're a</p> <p>3 registered voter.</p> <p>4 Q. No. But I mean you could search your</p> <p>5 database --</p> <p>6 A. Oh, yes.</p> <p>7 Q. -- of those people?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 A. Yeah.</p> <p>11 Q. To your knowledge is the only application that</p> <p>12 requires fingerprints the CHL, of the three that we</p> <p>13 talked about, the three databases?</p> <p>14 A. The driver's license requires fingerprint, the</p> <p>15 ID card requires a fingerprint. The difference --</p> <p>16 well, there is a difference in how those are obtained.</p> <p>17 Q. And when you say ID, just so the record is</p> <p>18 clear, that's the personal ID?</p> <p>19 A. Correct.</p> <p>20 Q. What's the difference between the personal ID</p> <p>21 and EIC?</p> <p>22 A. The personal identification card has more</p> <p>23 data, more information on it, on the card itself.</p> <p>24 Q. And can it be used to vote?</p> <p>25 A. The ID card?</p>	<p style="text-align: right;">163</p> <p>1 Q. Okay.</p> <p>2 A. Yeah.</p> <p>3 MR. KEISTER: Y'all are doing it again.</p> <p>4 MR. BRAZIL: I violated it too.</p> <p>5 Q. (BY MR. BRAZIL) Is the personal ID database</p> <p>6 part of the driver's license database?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. So if the Secretary of State wanted the</p> <p>9 personal ID database, if they asked for the driver's</p> <p>10 license database, would they get that?</p> <p>11 A. I'm sorry. If they wanted the ID database --</p> <p>12 Q. Yes.</p> <p>13 A. -- would they get that separately from driver</p> <p>14 license?</p> <p>15 Q. Would they get that as part of the driver's</p> <p>16 license database?</p> <p>17 A. They could.</p> <p>18 Q. Okay. Well, okay. Would it automatically be</p> <p>19 given to them so that if they said, "I want the</p> <p>20 driver's license database," would it be part of that</p> <p>21 database that they would receive?</p> <p>22 A. It's my understanding that that would depend</p> <p>23 on how the query is structured. If the query of the</p> <p>24 driver license database was structured so that we</p> <p>25 wanted to include driver's licenses and ID, then they</p>
<p style="text-align: right;">162</p> <p>1 Q. Yes.</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. Does it require more information than</p> <p>4 the EIC?</p> <p>5 A. On the card?</p> <p>6 Q. To apply for a personal identification.</p> <p>7 A. I don't believe it requires more on the</p> <p>8 application. There's more displayed on the card.</p> <p>9 Q. Okay. So the application is the same. The</p> <p>10 information given by the applicant, is it the same for</p> <p>11 the personal ID as it is for the EIC, if you know?</p> <p>12 A. I'm just -- I don't know what the differences</p> <p>13 in requirements for information are between EIC and the</p> <p>14 ID card.</p> <p>15 Q. Okay. And can a noncitizen apply for a</p> <p>16 personal ID?</p> <p>17 A. They can apply.</p> <p>18 Q. Do you designate race when you apply for a</p> <p>19 personal ID?</p> <p>20 A. I don't know the answer to that question.</p> <p>21 Q. Is that database separate from the driver's</p> <p>22 license database?</p> <p>23 A. The ID card database?</p> <p>24 Q. The personal ID.</p> <p>25 A. No, they're all the same.</p>	<p style="text-align: right;">164</p> <p>1 would get it all.</p> <p>2 Q. Okay. Because you do not have to have a Texas</p> <p>3 driver's license to obtain a personal ID, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. Now, the EIC can only be used to vote?</p> <p>6 A. Yes, sir, that's my understanding.</p> <p>7 Q. Okay. Does it comply with the REAL ID Act?</p> <p>8 A. The EIC?</p> <p>9 Q. Yes.</p> <p>10 A. No, sir.</p> <p>11 Q. Does the personal identification card issued</p> <p>12 by DPS comply with the REAL ID Act?</p> <p>13 A. No, sir.</p> <p>14 Q. Does the CHL?</p> <p>15 A. I'm not aware.</p> <p>16 Q. The driver's license does?</p> <p>17 A. No, sir.</p> <p>18 Q. It does not either?</p> <p>19 A. It's not completely compliant with REAL ID.</p> <p>20 Q. What is --</p> <p>21 A. We're in partial compliance and we're working</p> <p>22 toward complete compliance.</p> <p>23 Q. What is lacking on the driver's license?</p> <p>24 A. I don't remember what is lacking. I know we</p> <p>25 are lacking and we've received extensions on our</p>

JOE PETERS

4/30/2014

42 (Pages 165 to 168)

<p style="text-align: right;">165</p> <p>1 compliance based on the fact that the legislature only</p> <p>2 meets once every two years, and some of the compliance</p> <p>3 is going to require legislation.</p> <p>4 Q. Okay. When you apply for a driver's license,</p> <p>5 does DPS do a background check or criminal history</p> <p>6 check?</p> <p>7 A. Don't do a criminal history check.</p> <p>8 Q. Okay. What type of background check, if any,</p> <p>9 does DPS do?</p> <p>10 A. We don't do a background check. We do a</p> <p>11 warrant check.</p> <p>12 Q. Okay. And that's different from a criminal</p> <p>13 history check?</p> <p>14 A. Yes, sir. A criminal history check would give</p> <p>15 you all of your arrests and whether or not there were</p> <p>16 convictions, et cetera.</p> <p>17 Q. Okay. Just do a warrant search?</p> <p>18 A. A warrant search.</p> <p>19 Q. Okay. The same for CHL or is it more</p> <p>20 extensive?</p> <p>21 A. The -- it's my understanding -- I'm not part</p> <p>22 of CHL, but it's my understanding that the background</p> <p>23 check for CHL is more extensive.</p> <p>24 Q. Let me switch gears, if I may. And I will try</p> <p>25 not to re-plow old ground, okay?</p>	<p style="text-align: right;">167</p> <p>1 the counties would be just their personnel?</p> <p>2 A. Yes, sir, to my knowledge.</p> <p>3 Q. Okay. Is there any -- was there any budget</p> <p>4 items, specific budget item in S.B. 14 that would</p> <p>5 assist the counties in the EIC training or the extra</p> <p>6 manpower they may need, anything of that sort?</p> <p>7 A. No, sir.</p> <p>8 Q. Was there any extra money in the S.B. 14</p> <p>9 budget for assisting DPS with handling the EICs or any</p> <p>10 issue of S.B. 14 to your knowledge?</p> <p>11 A. No, sir.</p> <p>12 Q. So it had to come from -- your budget comes,</p> <p>13 what, out of transportation? I forget. But anyway.</p> <p>14 A. Some of it comes out of you Fund 6, but not</p> <p>15 all of it.</p> <p>16 Q. All right. Was there -- there was no extra</p> <p>17 money given to or allocated to DPS to help implement</p> <p>18 S.B. 14?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. It just comes out of your operating</p> <p>21 budget?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. Has anybody done a study at DPS on the</p> <p>24 impact, the fiscal impact of S.B. 14 on the DPS budget?</p> <p>25 A. Yes, we have.</p>
<p style="text-align: right;">166</p> <p>1 A. Okay.</p> <p>2 Q. I thought you would know what that term meant.</p> <p>3 The EIC training given to the counties,</p> <p>4 is it only when they request it? Is there any mandate,</p> <p>5 rule or regulation that says that counties have to</p> <p>6 undergo EIC training?</p> <p>7 A. That's in the memorandum of agreement between</p> <p>8 DPS and the county.</p> <p>9 Q. So it's voluntary?</p> <p>10 A. No, sir. If -- if they don't complete the</p> <p>11 training then we won't execute the agreement.</p> <p>12 Q. They that will not be allowed to do -- to</p> <p>13 issue EICs on their own?</p> <p>14 A. Correct.</p> <p>15 Q. You would have to send a mobile EIC unit to</p> <p>16 that county?</p> <p>17 A. Correct.</p> <p>18 Q. When a county is -- does receive the training</p> <p>19 or does undergo the training and is part of that</p> <p>20 agreement, are they provided the equipment to issue the</p> <p>21 EICs?</p> <p>22 A. Yes, they are.</p> <p>23 Q. Okay. By DPS?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. So the only -- so the budget issue to</p>	<p style="text-align: right;">168</p> <p>1 Q. And who performed that and where would I find</p> <p>2 it?</p> <p>3 A. The -- our driver license financial analyst</p> <p>4 and our finance division.</p> <p>5 Q. Any specific names or just somebody in those</p> <p>6 divisions?</p> <p>7 A. Saundra Truett is our financial analyst and</p> <p>8 I'm not sure who in finance would have participated in</p> <p>9 that.</p> <p>10 Q. Okay. Was that provided to the legislature</p> <p>11 during the process of S.B. 14? When was that provided,</p> <p>12 do you know?</p> <p>13 A. During the process of S.B. 14 there was a</p> <p>14 fiscal note prepared and supplied to the legislative</p> <p>15 budget board.</p> <p>16 Q. And how is that different from the analysis we</p> <p>17 just spoke about?</p> <p>18 A. The fiscal note estimated the -- well,</p> <p>19 actually we knew what the cost of a card would be. And</p> <p>20 we provided that information. We had no idea how to</p> <p>21 calculate how much staff time would be involved in</p> <p>22 issuing EICs without knowing what the volume of EIC</p> <p>23 applicants would be.</p> <p>24 Q. Do you recall when that fiscal note was</p> <p>25 provided?</p>

JOE PETERS

4/30/2014

43 (Pages 169 to 172)

<p style="text-align: right;">169</p> <p>1 A. 2000 -- it was just prior to passage of S.B. 2 14. 3 Q. And do you recall the amount that was 4 estimated? 5 A. No, I don't -- 6 Q. Ballpark it. 7 A. -- I don't recall the amount in total. There 8 were -- there were costs to the bill dependent upon how 9 many EICs would be issued or would have been issued. 10 And that was indeterminant. 11 Q. Okay. 12 A. The only thing we could determine was that 13 each card was going to cost us so much money and that, 14 again, the total would have been dependent on how many 15 were issued. 16 Q. Okay. Has there been a follow-up study to 17 that to determine what the actual cost was? 18 A. We have done an analysis as to what staff time 19 DPS employees have spent with respect to providing EIC 20 such as those that -- the employees that were 21 dispatched from a regular driver license office to a 22 mobile site. 23 We began tracking how much time they 24 spent on EICs, oh, last September I believe, September 25 or October, and we actually added a field in our</p>	<p style="text-align: right;">171</p> <p>1 Q. And they're given the equipment by DPS? 2 A. Yes, sir. 3 Q. And how long do they get to keep the 4 equipment? Is it up to them, is it pursuant to some 5 agreement? 6 A. It's pursuant to the agreement, but it's up to 7 them, they keep it as long as they're willing to 8 provide the service. 9 Q. And for those counties that will not provide 10 the service, that's when a mobile unit is utilized? 11 A. With DPS employees, yes, sir. 12 Q. So if a county says, "We're not going to be 13 part of that agreement," DPS would set up their mobile 14 station? 15 A. Yes, sir. 16 Q. And be manned only by DPS employees? 17 A. Correct. 18 Q. How would they determine the location and the 19 timing of those mobile units? 20 A. The location is determined by the local 21 supervisors. They'll travel to one of those counties 22 and scout potential locations and then determine 23 whether or not the owner or the proprietor of the 24 location agrees to let us have space for so many hours 25 a day for so many days.</p>
<p style="text-align: right;">170</p> <p>1 employee time accounting system to where when -- when a 2 CSR enters their time, if they spent one hour or six 3 hours providing EIC service, they enter it as EIC. And 4 we're now able to track how much time a DPS employee 5 spends on EIC specifically. 6 Q. Has DPS had -- had to hire extra people to 7 assist with implementation of S.B. 14? 8 A. No, sir. 9 Q. Do you know as we sit here today what the cost 10 has been to date to DPS? 11 A. The last analysis that I saw was \$845,000 and 12 that included equipment during the initial deployment. 13 That cost has gone down considerably since that time 14 because we don't have to buy more equipment, all we're 15 doing is providing staff time. 16 Q. Does that number include staff time also, that 17 890 -- 845? 18 A. Yes, sir. That's everything we could come up 19 with that touched EIC. 20 Q. Including the cost of the card? 21 A. Yes, sir. 22 Q. So when a county enters into this agreement 23 with DPS to handle the processing of EICs they are 24 given the training by DPS? 25 A. Yes, sir.</p>	<p style="text-align: right;">172</p> <p>1 Q. And is there a separate budget for the mobile 2 units? 3 A. No, sir. 4 Q. It's just part of the overall -- 5 A. Part of overall operation. Driver license, ID 6 card and EIC are all in the same operational budget. 7 Q. And when we talk about these mobile units, 8 we're talking about basically enough equipment to be 9 one unit? 10 A. Yes, sir. 11 Q. Okay. And there are 25 of these units? 12 A. Well, there are 25 that the Secretary of State 13 has. And then I don't remember the number now that DPS 14 has, but I think it's -- well, I don't know. It would 15 be guessing. 16 Q. Okay. 17 A. But there are additional mobile units other 18 than the 25 that I think you were referring to that the 19 Secretary of State owns. 20 Q. And when would the Secretary of State utilize 21 a mobile unit versus DPS? 22 A. The Secretary of State generally responds to 23 requests from the local community, the local political 24 leaders, the legislature for mobile sites and offices 25 or, rather, in locations where we already have a driver</p>

JOE PETERS

4/30/2014

44 (Pages 173 to 176)

<p style="text-align: right;">173</p> <p>1 license office presence.</p> <p>2 For example, Houston is an area where</p> <p>3 they've provided mobile service in addition to all of</p> <p>4 the driver license offices. We -- or I say Secretary</p> <p>5 of State has provided mobile sites in Harris County,</p> <p>6 Dallas County, Tarrant County, I believe Hidalgo</p> <p>7 County. I'm not sure who else.</p> <p>8 Q. And DPS provides in those counties that do not</p> <p>9 have a driver's license office?</p> <p>10 A. I'm sorry?</p> <p>11 Q. You -- DPS utilizes their mobile units in</p> <p>12 counties that do not have a driver's license office?</p> <p>13 A. No, sir, not necessarily because all of those</p> <p>14 counties all have driver license offices. This is in</p> <p>15 addition to what the -- like, a senator requested a</p> <p>16 mobile station at a certain church in Harris County</p> <p>17 Secretary of State provided that one.</p> <p>18 Q. Who could request a DPS mobile unit?</p> <p>19 A. Local officials can request it. In the case</p> <p>20 where we -- where we don't get a request from a local</p> <p>21 county, our goal was to be able to provide EIC</p> <p>22 availability in all 254 counties before every election.</p> <p>23 Q. So the same people could -- the same officials</p> <p>24 could request the Secretary of State's mobile units as</p> <p>25 DPS as well?</p>	<p style="text-align: right;">175</p> <p>1 about the monetary studies by DPS on the -- for</p> <p>2 example, the wait times at some of the offices.</p> <p>3 Have -- has there been any study to determine if the</p> <p>4 lines are longer or there's more wait because of the</p> <p>5 issuance of EICs?</p> <p>6 A. No, sir. We track wait times in some of the</p> <p>7 larger offices with queueing systems in places, but EIC</p> <p>8 transactions are not distinguished in those queueing</p> <p>9 systems.</p> <p>10 Q. Have you seen any increase in the wait time</p> <p>11 since the -- since S.B. 14 went into effect?</p> <p>12 A. No, sir. As a matter of fact, we're seeing</p> <p>13 decreases in wait times.</p> <p>14 Q. Can a county request directly from DPS one of</p> <p>15 their databases?</p> <p>16 A. I'm sorry? One of their databases?</p> <p>17 Q. Yes.</p> <p>18 A. The counties -- the county appraisal districts</p> <p>19 can request the driver's license database.</p> <p>20 Q. Any other database that you're aware of?</p> <p>21 A. I'm not aware of any other database they can</p> <p>22 ask for the entire database. The counties' sheriff's</p> <p>23 office and police departments all have access to the</p> <p>24 criminal history database via the Texas law enforcement</p> <p>25 telecommunications system.</p>
<p style="text-align: right;">174</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. Are you aware of any provision of S.B.</p> <p>3 14 that the DPS wanted delayed implementation of?</p> <p>4 A. No, sir.</p> <p>5 Q. Did anybody lobby on behalf of DPS for extra</p> <p>6 funding for the implementation of S.B. 14?</p> <p>7 A. No, sir. We don't lobby.</p> <p>8 Q. Ask for. Let me change the term.</p> <p>9 A. There may have been a suggestion but --</p> <p>10 Q. Okay. Do you know --</p> <p>11 A. No.</p> <p>12 Q. -- if someone made that suggestion and had a</p> <p>13 specific amount in mind?</p> <p>14 A. No, I don't.</p> <p>15 Q. Do you know if the counties asked for a</p> <p>16 specific budgetary item to help them comply with any</p> <p>17 part of S.B. 14?</p> <p>18 A. I'm not. Unless they may have made some</p> <p>19 request to local commissioner's court, and I would not</p> <p>20 be aware of that.</p> <p>21 Q. Are you aware of any rule or regulation or law</p> <p>22 that makes it mandatory for the counties to undergo the</p> <p>23 training to issue EICs?</p> <p>24 A. No, sir.</p> <p>25 Q. Have there been any studies -- you talked</p>	<p style="text-align: right;">176</p> <p>1 Y'all have to access to the sex offender</p> <p>2 registry as well.</p> <p>3 Q. But the driver's license database is not</p> <p>4 automatically accessible to the counties?</p> <p>5 A. It is to the law enforcement community in</p> <p>6 those counties.</p> <p>7 Q. But not to the voter registrar or election</p> <p>8 official in each county?</p> <p>9 A. I'm not aware that the voter registrar is.</p> <p>10 Q. Can they request it and be given it, given the</p> <p>11 driver's license database?</p> <p>12 A. I suppose they can request it. I don't know</p> <p>13 that they would be given the entire database.</p> <p>14 Q. Do you know if there's any rule or regulation</p> <p>15 that would prevent your office from giving them?</p> <p>16 A. I don't know of one.</p> <p>17 Q. Who is Mark Doggett? Does he work for DPS?</p> <p>18 A. He used to.</p> <p>19 Q. What was his position when he was there?</p> <p>20 A. He was assistant director for the information</p> <p>21 technology division.</p> <p>22 Q. Was part of his job EICs or part of the</p> <p>23 implementation of S.B. 14?</p> <p>24 A. I'm not sure when he left. But he may have</p> <p>25 had a part in -- in the S.B. 14 development.</p>

JOE PETERS

4/30/2014

45 (Pages 177 to 180)

<p style="text-align: right;">177</p> <p>1 Q. Did someone request that Texas State conduct</p> <p>2 some kind of survey that was going to assist DPS?</p> <p>3 A. Yes.</p> <p>4 Q. And did DPS make that request or do you know?</p> <p>5 A. DPS made the request.</p> <p>6 Q. And what did they ask Texas State to do?</p> <p>7 A. We asked Texas State to look at population</p> <p>8 centers and projected population growth and in order to</p> <p>9 use that data to determine where we needed to place our</p> <p>10 mega centers and that the -- the legislature had given</p> <p>11 us money to -- for driver -- I'm sorry -- driver</p> <p>12 license improvement.</p> <p>13 And the -- the decision was to establish</p> <p>14 these large driver license offices with a minimum of 25</p> <p>15 customer service representatives in the office, and we</p> <p>16 wanted to be certain that those offices were placed in</p> <p>17 population centers where they would be the most</p> <p>18 effective and where the population was going, where the</p> <p>19 trends were, so we wouldn't invest in an office that</p> <p>20 five years down the road was not in a population</p> <p>21 center -- you know, if the population grew the other</p> <p>22 direction, we didn't want people to have to drive clear</p> <p>23 across the county to get to a major driver license</p> <p>24 office.</p> <p>25 Q. Did any part of that request have within the</p>	<p style="text-align: right;">179</p> <p>1 Q. You mentioned, with the counties, memorandum</p> <p>2 of agreement. Was that the exhibit we looked at?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Did -- has the DPS to your knowledge</p> <p>5 done any survey or study to determine what the cost to</p> <p>6 an individual is in, for example, obtaining a birth</p> <p>7 certificate, certified copy of the birth certificate or</p> <p>8 any of the other forms of identification we've talked</p> <p>9 about?</p> <p>10 A. No, sir.</p> <p>11 Q. Can someone get a birth certificate at the</p> <p>12 state -- I mean at the county level or do they have to</p> <p>13 go to the state level to get that or do you know?</p> <p>14 A. Well, it's my understanding they can get -- in</p> <p>15 most cases they can get them at county level, but I</p> <p>16 have no DPS knowledge of that.</p> <p>17 Q. Okay. Just so I understand, you talked</p> <p>18 about -- you spoke about the fiscal note that was</p> <p>19 provided sometime ago and then you said there was</p> <p>20 something else done by someone within DPS to evaluate</p> <p>21 the cost of S.B. 14. Are those -- did I get that</p> <p>22 correct, that there's two different analyses or --</p> <p>23 A. Well, it was all contained in the same</p> <p>24 analyses, and DPS staff in that fiscal note said that</p> <p>25 each EIC card, the production of that card would cost</p>
<p style="text-align: right;">178</p> <p>1 request S.B. 14 or any of the requirements that DPS was</p> <p>2 going to have to meet, anything of that sort?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Is it separate and apart, as you know it, from</p> <p>5 S.B. 14?</p> <p>6 A. That was done in order to improve our driver</p> <p>7 license wait times.</p> <p>8 Q. Is that one of the reasons that you said the</p> <p>9 wait time has gone down --</p> <p>10 A. Those --</p> <p>11 Q. -- because of the mega centers?</p> <p>12 A. Those are one of the reasons. And some of the</p> <p>13 other offices we've done refreshes and modified the</p> <p>14 traffic flow within the office. That also has</p> <p>15 contributed.</p> <p>16 Q. Did you have to reallocate resources at DPS</p> <p>17 offices for the EIC implementation?</p> <p>18 A. No, sir.</p> <p>19 Q. You just utilized existing personnel and</p> <p>20 trained them for EICs?</p> <p>21 A. That's correct.</p> <p>22 Q. And that training is very similar to a</p> <p>23 personal ID processing?</p> <p>24 A. It would be, although the DL process would be</p> <p>25 a little more extensive.</p>	<p style="text-align: right;">180</p> <p>1 some amount and that there would be a cost to the bill</p> <p>2 for if someone came in and got an EIC and then did not</p> <p>3 have to -- to purchase an ID or a driver's license, how</p> <p>4 many ever -- the assumption was made for the purposes</p> <p>5 of that fiscal note that if a thousand people came in</p> <p>6 and got EICs and thus didn't require an ID or a DL,</p> <p>7 then that would be a loss of revenue to the State by</p> <p>8 whatever amount the driver license or the ID card would</p> <p>9 have cost.</p> <p>10 Q. How often is the State -- the DPS driver's</p> <p>11 license database updated?</p> <p>12 A. Daily.</p> <p>13 Q. Okay. Is that the same for purging people</p> <p>14 that have died or whatever?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. When does that occur? When does the</p> <p>17 purging occur?</p> <p>18 A. If -- if we get notified that a death has</p> <p>19 occurred, then we'll purge. But the database has quite</p> <p>20 a few in there where we did not receive notification</p> <p>21 and the driver is no longer with us.</p> <p>22 Q. Do some people fall off automatically? When</p> <p>23 it's not renewed for a certain period of time, are they</p> <p>24 purged from the system?</p> <p>25 A. No, sir.</p>

JOE PETERS

4/30/2014

46 (Pages 181 to 184)

<p style="text-align: right;">181</p> <p>1 Q. So they stay in there forever?</p> <p>2 A. They stay there forever, but it still shows</p> <p>3 that they've expired for however long a time it is.</p> <p>4 And say forever, I better qualify that. I'm not sure</p> <p>5 just how long it stays in there, but I know that I have</p> <p>6 seen some that have been in there for ten years that</p> <p>7 are -- that have been expired that long.</p> <p>8 Q. The agreement, the -- I think you called it</p> <p>9 cooperation agreement with the counties, specifically</p> <p>10 states the county is to perform the initial processing</p> <p>11 of EICs. Then they turn that information over to DPS?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And DPS issues the cards?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. The counties do not physically issue</p> <p>16 the cards?</p> <p>17 A. They issue a receipt at the time that can be</p> <p>18 used for voting, but the card doesn't come until it</p> <p>19 goes through quality assurance at headquarters.</p> <p>20 Q. Are you -- is there any DPS database that</p> <p>21 counties could request or -- whether it be an election</p> <p>22 official or otherwise, that would have to be purchased</p> <p>23 by the county to your knowledge?</p> <p>24 A. I'm not aware of one.</p> <p>25 Q. Do you know why the counties were not mandated</p>	<p style="text-align: right;">183</p> <p>1 requirements that DPS has to comply with?</p> <p>2 A. Different requirements that we have to comply</p> <p>3 with?</p> <p>4 Q. For example, is the application for Agency A</p> <p>5 the same as it would be for Agency B on access cards?</p> <p>6 A. Not necessarily, no, sir.</p> <p>7 Q. Okay. So how would DPS know what process to</p> <p>8 use for each individual agency?</p> <p>9 A. I'm not absolutely certain, but what I do know</p> <p>10 about it from having worked at the capitol, if -- if an</p> <p>11 employee in the Secretary of State's office, for</p> <p>12 example, needed access to the capitol building, their</p> <p>13 access card is going to grant them that access. But if</p> <p>14 the Secretary of State's employee asks for access to</p> <p>15 the Reagan Building, for example, and they had no</p> <p>16 business to conduct over there, they would not be</p> <p>17 granted access to that building.</p> <p>18 Q. How would DPS know that?</p> <p>19 A. Based on the supervisor's approval of the</p> <p>20 application.</p> <p>21 Q. Okay. So there is an application and it may</p> <p>22 be different for different agencies?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And access would be granted based on</p> <p>25 the supervisor's signature on the application?</p>
<p style="text-align: right;">182</p> <p>1 by the legislature to handle the processing of EICs?</p> <p>2 A. No, sir.</p> <p>3 Q. Do other agencies use DPS resources to issue</p> <p>4 security access cards to their employees?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And what exactly does that mean? How would</p> <p>7 another agency use DPS resources to do that?</p> <p>8 A. Well, an example would be legislative staff</p> <p>9 employees that work in the capitol, DPS will issue</p> <p>10 their access cards based on the permission granted</p> <p>11 them, you know, to enter certain areas of the capitol.</p> <p>12 Q. So they would go to a DPS office and request</p> <p>13 that security card?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Other agencies would do the same, they</p> <p>16 would come to DPS and say, "I work for such and such</p> <p>17 agency, I need an identification card," and then DPS</p> <p>18 would process it?</p> <p>19 A. Well, yeah, they would need an access card.</p> <p>20 Q. Okay. And is -- do they complete some type of</p> <p>21 application similar to the application for personal ID</p> <p>22 or something along those line?</p> <p>23 A. They do and it has to be approved by their</p> <p>24 supervisor or agency head.</p> <p>25 Q. Do different agencies have different</p>	<p style="text-align: right;">184</p> <p>1 A. Yes, sir.</p> <p>2 Q. Who did you replace at DPS?</p> <p>3 A. Rebecca Davio.</p> <p>4 Q. And where is she now?</p> <p>5 A. As far as I know she's in the real estate</p> <p>6 business here in Austin.</p> <p>7 Q. So you started about June of last year?</p> <p>8 A. June 24th.</p> <p>9 Q. Okay. Were you involved in any aspect of S.B.</p> <p>10 14 before you took the job in June of last year?</p> <p>11 A. No, sir.</p> <p>12 Q. So you did not participate in any preclearance</p> <p>13 issues, legislative issues, anything of that sort with</p> <p>14 S.B. 14?</p> <p>15 A. No, sir.</p> <p>16 Q. Do you know how the idea of EIC mobile units</p> <p>17 originated?</p> <p>18 A. There was discussion about being able to</p> <p>19 provide easy access to as many people as we could and</p> <p>20 because at the time there were 78 counties across the</p> <p>21 State that did not have a driver license presence, you</p> <p>22 know, driver license office, and the idea of mobile</p> <p>23 units where we went in and provided temporary EIC</p> <p>24 service in those counties was born. And I can't tell</p> <p>25 you where that came from. I think it was primarily a</p>

JOE PETERS

4/30/2014

47 (Pages 185 to 188)

<p style="text-align: right;">185</p> <p>1 discussion with Secretary of State's office.</p> <p>2 Q. Originally, a fingerprint scanner or device</p> <p>3 was in the budget for the mobile units, correct?</p> <p>4 A. No, sir, there was no budget for mobile units.</p> <p>5 Q. Was there an estimate made for the mobile unit</p> <p>6 equipment --</p> <p>7 A. Yes, sir.</p> <p>8 Q. -- cost?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Was it -- was included in that a fingerprint</p> <p>11 device?</p> <p>12 A. Initially, yes, sir.</p> <p>13 Q. Were they ever supplied to the mobile units</p> <p>14 for any period of time?</p> <p>15 A. They were not. We ordered them and then by</p> <p>16 the time we got them they had to go through testing and</p> <p>17 we decided against capturing fingerprints so we</p> <p>18 returned them to the vendor.</p> <p>19 Q. Where would I find or who would have</p> <p>20 possession of the documents that would address the cost</p> <p>21 issues that you spoke of earlier, the</p> <p>22 eight-hundred-plus thousand dollars, that cost on the</p> <p>23 DPS?</p> <p>24 A. Driver license division will have that</p> <p>25 document that was put together. It's just a</p>	<p style="text-align: right;">187</p> <p>1 A. Well, the information in that document would</p> <p>2 have come from DPS.</p> <p>3 Q. Okay. Was it prepared by DPS?</p> <p>4 A. I don't know who it was prepared by.</p> <p>5 Q. Okay. Do you --</p> <p>6 A. But some of the numbers in here do look</p> <p>7 familiar to me.</p> <p>8 Q. -- have any idea when that document may been</p> <p>9 prepared?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. That would be number --</p> <p>12 THE REPORTER: 46.</p> <p>13 MR. BRAZIL: 46.</p> <p>14 (Exhibit 46 marked.)</p> <p>15 MR. KEISTER: Let me see that just to get</p> <p>16 the number off of it.</p> <p>17 Q. (BY MR. BRAZIL) Did DPS contact directly any</p> <p>18 of the counties regarding the EIC mobile units? I</p> <p>19 mean, did you reach out and say, "Okay, we don't have a</p> <p>20 DPS office in this county, so contact that county and</p> <p>21 see if they will undergo the training or whatever"?</p> <p>22 A. We did.</p> <p>23 Q. And did you have somebody assigned to do that</p> <p>24 or how did that occur?</p> <p>25 A. In some cases the senior managers contacted</p>
<p style="text-align: right;">186</p> <p>1 spreadsheet that listed the cost.</p> <p>2 Q. Do you know if that's been produced in this</p> <p>3 litigation?</p> <p>4 A. I don't.</p> <p>5 Q. I'm trying not to re-plow the same ground.</p> <p>6 A. Much appreciated.</p> <p>7 Q. Let me show you what I did locate and I was</p> <p>8 not exactly sure what this was, but I'll hand you -- we</p> <p>9 may mark it as an exhibit but it's -- it's</p> <p>10 TEX 00220420.</p> <p>11 Can you tell me what that document is?</p> <p>12 A. It appears to be a calculation that was</p> <p>13 utilized in putting the fiscal note together for S.B.</p> <p>14 14. I mean, it doesn't -- and it says, "Cost to</p> <p>15 implement S.B. 14."</p> <p>16 And I don't know when this was produced,</p> <p>17 but that's what it appears.</p> <p>18 Q. Is any of the information in that document,</p> <p>19 was any of that produced by or provided by DPS?</p> <p>20 A. In this document?</p> <p>21 Q. Yes.</p> <p>22 A. Well, it was provided in the fiscal note. Are</p> <p>23 you talking about provided to -- for this litigation?</p> <p>24 Q. No. Provided -- did DPS prepare that</p> <p>25 document? Let me ask it more simply.</p>	<p style="text-align: right;">188</p> <p>1 the counties. In some cases the -- one of the deputy</p> <p>2 assistant directors contacted the county and in most of</p> <p>3 the cases the regional manager of the region involved</p> <p>4 contacted the counties.</p> <p>5 Q. What happens when someone's driver's license</p> <p>6 is revoked? What does DPS do? Do they send a letter?</p> <p>7 How does that occur?</p> <p>8 A. They send a letter.</p> <p>9 Q. Same with the CHL, I assume?</p> <p>10 A. I don't know what happens with a CHL.</p> <p>11 Q. Let me check my notes here. I'm just about</p> <p>12 finished.</p> <p>13 When a mobile site was set up and a</p> <p>14 county underwent the training and was going to issue</p> <p>15 the EICs, who would transport the equipment to the</p> <p>16 county?</p> <p>17 A. The training staff did that.</p> <p>18 Q. And then the County would sign off on receipt</p> <p>19 of the equipment?</p> <p>20 A. That's correct.</p> <p>21 Q. Was there any -- to your knowledge is there</p> <p>22 any rule or regulation or mandate that the county open</p> <p>23 their EIC office on Saturday?</p> <p>24 A. No, sir.</p> <p>25 Q. So it was up to the individual counties?</p>

JOE PETERS

4/30/2014

48 (Pages 189 to 192)

<p style="text-align: right;">189</p> <p>1 A. Yes, sir.</p> <p>2 Q. I believe I'll pass the witness. Thank you.</p> <p>3 A. Thank you.</p> <p>4 THE REPORTER: You want to go off the</p> <p>5 record?</p> <p>6 (Discussion off the record.)</p> <p>7 EXAMINATION</p> <p>8 BY MR. DUNBAR:</p> <p>9 Q. Good afternoon, Mr. Peters. I'm Kelly Dunbar</p> <p>10 again. And as with -- I know we've covered lots of</p> <p>11 ground today, so apologies in advance if I'm jumping</p> <p>12 around a bit. But it will be also in a perhaps failed</p> <p>13 effort to avoid repeating some ground.</p> <p>14 And I know Mr. Freeman gave you a series</p> <p>15 of instructions about rules of the deposition. I won't</p> <p>16 repeat those, but it -- I assume you understand them</p> <p>17 and if you have any questions, obviously feel free to</p> <p>18 ask.</p> <p>19 A. Understood.</p> <p>20 Q. So I would like to start with the line of</p> <p>21 questions about the locations of DPS offices generally</p> <p>22 and in particular with reference to public</p> <p>23 transportation. And just to be clear, for this line of</p> <p>24 questioning when I refer to DPS offices, I'm referring</p> <p>25 to the traditional brick-and-mortar office. I will</p>	<p style="text-align: right;">191</p> <p>1 Q. And what would those other services be?</p> <p>2 A. Primarily they would house other divisions,</p> <p>3 agents and rangers and so forth of other divisions</p> <p>4 within the department. Criminal investigations,</p> <p>5 administration.</p> <p>6 Q. Got it. Got it. That makes sense. So and</p> <p>7 that is a helpful clarification, then, for me. So when</p> <p>8 I refer to "DPS offices" then for series, unless</p> <p>9 context indicates otherwise or I say otherwise, I'm</p> <p>10 meaning driver's license DPS offices.</p> <p>11 A. Okay.</p> <p>12 Q. And so as I understand your testimony there</p> <p>13 are 78 -- currently 78 counties without a DPS office;</p> <p>14 is that right?</p> <p>15 A. Correct.</p> <p>16 Q. And are these counties concentrated in</p> <p>17 specific geographic regions in the state?</p> <p>18 A. No, sir. They're not concentrated in any</p> <p>19 specific geographic region of the state. For the most</p> <p>20 part they're rural area, counties and probably more in</p> <p>21 the West Texas region than East Texas.</p> <p>22 Q. Okay. So if you had to generalize about</p> <p>23 counties that don't have a DPS office it would be some</p> <p>24 combination of rural West Texas, understanding that</p> <p>25 those -- there are probably lots of exceptions to that?</p>
<p style="text-align: right;">190</p> <p>1 have some questions about the mobile EIC units or</p> <p>2 stations or whatever we're calling them later, but for</p> <p>3 this series of questions a reference to a DPS office</p> <p>4 will be a reference to a brick-and-mortar operation.</p> <p>5 Does that make sense to you?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Great.</p> <p>8 A. And you do understand that some DPS offices</p> <p>9 are not driver license offices and some are combination</p> <p>10 and so forth.</p> <p>11 Q. That's exactly all things I want to get to --</p> <p>12 A. Okay.</p> <p>13 Q. -- to help make sure I understand. I do not</p> <p>14 understand that as well you.</p> <p>15 A. Okay.</p> <p>16 Q. So how many DPS offices are located in Texas,</p> <p>17 total?</p> <p>18 A. There are 228 driver license offices and there</p> <p>19 are more than that of -- I assume. I don't know how</p> <p>20 many total offices there are.</p> <p>21 Q. Okay. And in those offices that do not -- so</p> <p>22 there are some driver's -- there are some DPS offices,</p> <p>23 then, that do not provide driver's license services but</p> <p>24 provide other services?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">192</p> <p>1 A. Yes, and the Panhandle.</p> <p>2 Q. Correct. And does DPS know anything about the</p> <p>3 racial demographics of the counties without DPS</p> <p>4 offices?</p> <p>5 A. No, sir.</p> <p>6 Q. Has anyone at DPS ever studied or analyzed</p> <p>7 that issue?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. Stepping back at a more general level, how is</p> <p>10 the decision to locate a new DPS office made?</p> <p>11 A. We want to locate the offices in areas of the</p> <p>12 greatest population concentration.</p> <p>13 Q. Uh-huh.</p> <p>14 A. And as mentioned earlier, we utilized the</p> <p>15 Texas State study to determine what the projected</p> <p>16 populations were going to be over the next ten years.</p> <p>17 Q. Right. And I guess at a very even more basic</p> <p>18 level, who actually makes the decision, the final</p> <p>19 decision where to locate a DPS office?</p> <p>20 A. The driver's license division administration</p> <p>21 makes a recommendation to the director, and the Public</p> <p>22 Safety Commission generally has final say. And if they</p> <p>23 don't like where we want to put one, we don't put it.</p> <p>24 Q. So that you, the driver's license division,</p> <p>25 would make a recommendation to the director of DPS; DPS</p>

JOE PETERS

4/30/2014

49 (Pages 193 to 196)

<p style="text-align: right;">193</p> <p>1 would need ultimate signoff from the commission? Is</p> <p>2 that correct?</p> <p>3 A. Well, we don't have to have ultimate signoff</p> <p>4 but as a courtesy to them, so they know what's going</p> <p>5 on, we brief them.</p> <p>6 Q. I see. I see. And so are there statutes or</p> <p>7 regulations that govern the decision where to locate a</p> <p>8 DPS office?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. And as a general matter would you agree</p> <p>11 that in order for DPS to carry out its various missions</p> <p>12 the public needs to be able to physically get to a DPS</p> <p>13 office?</p> <p>14 A. If what they're trying to accomplish requires</p> <p>15 them to come to a DPS office, yes.</p> <p>16 Q. Okay. And which DPS services do not require a</p> <p>17 member of the public to actually come to an office?</p> <p>18 A. Driver license renewal, ID card renewal, CHL</p> <p>19 applications. There may be others.</p> <p>20 Q. Got it. Got it. And has DPS ever analyzed</p> <p>21 how the public actually does get to a DPS office?</p> <p>22 A. In the case of the mega centers we did.</p> <p>23 Q. Okay. And that was recently?</p> <p>24 A. Well, to the -- to the extent that we looked</p> <p>25 for locations that had access to public transportation.</p>	<p style="text-align: right;">195</p> <p>1 Q. Does that make sense?</p> <p>2 MR. KEISTER: Object to form. Calls for</p> <p>3 speculation.</p> <p>4 A. Well, I believe now that it makes sense.</p> <p>5 Depending on the population concentration. If -- if</p> <p>6 there was not public access to a driver license office,</p> <p>7 it would be a concern.</p> <p>8 Q. (BY MR. DUNBAR) Right.</p> <p>9 A. And again, it would depend on the size of the</p> <p>10 office. You know, if it's a -- if it's a small county</p> <p>11 and a one- or two-person office maybe public access is</p> <p>12 not so critical.</p> <p>13 Q. Right.</p> <p>14 A. And likely, publication transportation is not</p> <p>15 available.</p> <p>16 Q. Right. And I guess prior to S.B. 14, the</p> <p>17 pre-S.B. 14 world, would you agree with the statement</p> <p>18 that access to public transportation might not have</p> <p>19 been as important given that the demographic you were</p> <p>20 serving would be people who want driver's license or</p> <p>21 have driver's license and thus probably have access to</p> <p>22 a car or an automobile?</p> <p>23 A. I don't think that was a factor. The</p> <p>24 factor -- the primary factor in that was whether or not</p> <p>25 there was public access -- if I understood your</p>
<p style="text-align: right;">194</p> <p>1 Q. And prior to the mega -- the mega center</p> <p>2 locations, is it your understanding as the</p> <p>3 representative of DPS that historically prior to that</p> <p>4 time access to public transportation was a factor taken</p> <p>5 into consideration when locating the DPS office?</p> <p>6 A. I'm not aware that access to public</p> <p>7 transportation in the location of the earlier offices</p> <p>8 was a factor.</p> <p>9 Q. So for any DPS office that was located prior</p> <p>10 to the mega centers, DPS is simply unaware or you're --</p> <p>11 DPS -- you speaking on behalf of DPS are unaware that</p> <p>12 access to public transportation was a factor?</p> <p>13 A. Correct.</p> <p>14 Q. Is it just that you don't know or that you</p> <p>15 could actually say for certain that that was not a</p> <p>16 factor?</p> <p>17 A. It's that I don't know that -- that any</p> <p>18 evaluation was done in location of the offices prior --</p> <p>19 or access to the offices prior to the mega centers.</p> <p>20 Q. Right. And given that the public does need</p> <p>21 physical access to DPS offices for at least some DPS</p> <p>22 services, do you have an understanding of why access to</p> <p>23 public transportation wouldn't have been a factor</p> <p>24 historically?</p> <p>25 A. No.</p>	<p style="text-align: right;">196</p> <p>1 question correctly -- the consideration as to whether</p> <p>2 or not there was public access any time, whether it was</p> <p>3 S.B. 14 or before. But it just happened that the mega</p> <p>4 centers were not a gleam in our eye until Senate Bill</p> <p>5 14.</p> <p>6 Q. Okay. In going forward, then, looking</p> <p>7 prospectively, does DPS have a policy of locating</p> <p>8 future offices near public transportation?</p> <p>9 A. There's no written policy, but that's our</p> <p>10 desire.</p> <p>11 Q. That's your desire and, as with some of the</p> <p>12 other discretionary things we've talked about, that</p> <p>13 could change tomorrow. It's not written down in a law</p> <p>14 or regulation --</p> <p>15 A. No, it's not.</p> <p>16 Q. -- or policy?</p> <p>17 A. And that's a factor subject to funding</p> <p>18 availability. You know, if we had to -- if we were</p> <p>19 going to put an office in downtown office where we</p> <p>20 couldn't afford it, that would be a factor.</p> <p>21 Q. Okay.</p> <p>22 MR. DUNBAR: Hasan, could we get</p> <p>23 exhibit -- Tab 12, please.</p> <p>24 THE REPORTER: Exhibit 47.</p> <p>25 (Exhibit 47 marked.)</p>

JOE PETERS

4/30/2014

50 (Pages 197 to 200)

<p style="text-align: right;">197</p> <p>1 Q. (BY MR. DUNBAR) Mr. Peters, have you seen 2 this document before?</p> <p>3 A. Yes.</p> <p>4 Q. And there is a cover e-mail from someone named 5 Janie Smith to you which then includes an attachment. 6 For the time being I would like to focus on the 7 attachment, if you would flip the --</p> <p>8 And can you describe for me the context 9 or tell me a little bit about what this document is?</p> <p>10 MR. KEISTER: Counsel, before we go any 11 further, I'm noticing this is an attorney/client 12 document which evidently was inadvertently produced.</p> <p>13 MR. DUNBAR: Can we go off the record to 14 talk about it?</p> <p>15 MR. KEISTER: Yes, let's go off the 16 record --</p> <p>17 THE REPORTER: Off the record. 18 (Discussion off the record.)</p> <p>19 THE REPORTER: Back on the record.</p> <p>20 MR. KEISTER: Counsel, with respect to 21 Exhibit 47, the cover page e-mail, we contend, is 22 attorney/client and attorney/client work product, and 23 we're going to request that that be clawed back or 24 returned to the OAG.</p> <p>25 With respect to the information on the</p>	<p style="text-align: right;">199</p> <p>1 focus on the, quote/unquote, "Available Public 2 Transportation" column. What does "available public 3 transportation" mean?</p> <p>4 A. That means that there's public transportation 5 available to the office or within near proximity.</p> <p>6 Q. So that means, if I understand you correctly, 7 that someone -- there, say, is a bus stop located near 8 the Dallas-Garland Mega Center, for example. If 9 there's a bus stop located near the Dallas-Garland Mega 10 Center, an X was put in the "Available Public 11 Transportation" column, correct?</p> <p>12 A. That's my understanding. I didn't create the 13 document, but that's my understanding.</p> <p>14 Q. Okay. And so that means with respect to the 15 2.4 estimated million people that live in the county, 16 an X in this box does not mean that all 2.4 million of 17 those people have public transportation they could use 18 to get to that DPS office then, correct?</p> <p>19 A. I can't answer the question because I don't 20 know where the 2.4 million live and how far from access 21 to public transportation within that location they are.</p> <p>22 Q. Fair enough. But the metric that was used to 23 determine whether to put an X in the box would not tell 24 someone looking at the chart whether all 2.4 million of 25 those people could access a DPS office through public</p>
<p style="text-align: right;">198</p> <p>1 attachment, I think that's been produced and used in 2 other forums, so we don't have any objections to the -- 3 to the attachment to the e-mail.</p> <p>4 MR. DUNBAR: Okay. And for the record, I 5 understand you'll put that request in writing just for 6 all of the groups who might not be here. Is that 7 right?</p> <p>8 MR. KEISTER: That's right. We will.</p> <p>9 MR. DUNBAR: Okay.</p> <p>10 Q. (BY MR. DUNBAR) Okay. So, Mr. Peters, 11 turning to just the attachment, then, can you describe 12 for me what the attachment is?</p> <p>13 A. The attachment appears to be a list of 14 driver's license offices, the cities they're in, the 15 counties they're in, the number of employees that are 16 assigned to that office, what DPS region the office is 17 in, the office hours and days that that office is 18 open --</p> <p>19 Q. Yeah.</p> <p>20 A. -- and estimated county population in 2012 --</p> <p>21 Q. Right.</p> <p>22 A. -- and whether or not public transportation 23 was available and whether or not it has electronic 24 queuing system available.</p> <p>25 Q. Thank you. And for present purposes I want to</p>	<p style="text-align: right;">200</p> <p>1 transportation; is that correct?</p> <p>2 A. That would be correct.</p> <p>3 Q. In connection with this chart did DPS analyze 4 the costs in time or dollars for those that could make 5 use of public transportation to arrive at a DPS office?</p> <p>6 A. No, sir, not that I'm aware of.</p> <p>7 Q. And what forms of public transportation were 8 considered in creating this chart?</p> <p>9 A. Bus lines, taxi service, rail if it was 10 available.</p> <p>11 Q. So taxi service was included as a potential 12 means of available public transportation?</p> <p>13 A. That's my understanding, yes, sir.</p> <p>14 Q. So if someone could -- that lived on the 15 outskirts of, say, Dallas County could call a taxi and 16 pay \$80 to have the taxi take the person to the 17 Dallas-Garland Mega Center, that would be considered a 18 form of public transportation that would lead to a 19 checking of the X in this column?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. How many -- and perhaps you don't know, 22 but do you know or does DPS know how many Texans live 23 in counties where the DPS office is not accessible via 24 public transportation?</p> <p>25 A. I don't know.</p>

JOE PETERS

4/30/2014

51 (Pages 201 to 204)

<p style="text-align: right;">201</p> <p>1 Q. Do you think it's a significant portion of the</p> <p>2 Texas population?</p> <p>3 A. Statewide?</p> <p>4 Q. Yes. Just doing the math based on this chart.</p> <p>5 MR. KEISTER: Objection, form. It calls</p> <p>6 for speculation and lack of a calculator.</p> <p>7 Q. (BY MR. DUNBAR) Well, if I told you the</p> <p>8 number was somewhere around 6 million, would that --</p> <p>9 would that seem out of bounds to you?</p> <p>10 A. 6 million that -- that population that had --</p> <p>11 Q. That live in counties without using the</p> <p>12 State's metric --</p> <p>13 A. Without.</p> <p>14 Q. -- "available public transportation" to get to</p> <p>15 a DPS office?</p> <p>16 A. Well, if you consider that there are roughly</p> <p>17 21 million driver license and ID card holders, it would</p> <p>18 be somewhat significant.</p> <p>19 Q. Okay. And for those folks that don't have</p> <p>20 access to available public transportation, as DPS is</p> <p>21 defining it for purposes of this chart, are there any</p> <p>22 forms of transportation assistance available to -- for</p> <p>23 an individual to get to the DPS office to secure -- to</p> <p>24 apply for an EIC or any information doc?</p> <p>25 A. Are you asking if DPS provides transportation</p>	<p style="text-align: right;">203</p> <p>1 Q. Aware of that.</p> <p>2 A. -- let me qualify the answer.</p> <p>3 Q. Sure.</p> <p>4 A. There was one and maybe two that requested or</p> <p>5 complained because they couldn't -- it was her mother,</p> <p>6 I think it was, that couldn't vote because we denied</p> <p>7 her an ID card and somehow it got twisted around to</p> <p>8 where she was in there applying for an EIC when in fact</p> <p>9 she was actually looking for an ID, and we did send</p> <p>10 homebound -- or CSR and did a homebound visit and got</p> <p>11 her the ID.</p> <p>12 Q. Okay. And is there a statute or regulation</p> <p>13 that requires DPS to offer this homebound service?</p> <p>14 A. No, sir.</p> <p>15 Q. And this homebound service is just for those</p> <p>16 with physical disabilities; is that correct?</p> <p>17 A. Well, whatever their disability is, each case</p> <p>18 is evaluated individually at the office level.</p> <p>19 Q. So if I lived in a county, just looking at</p> <p>20 this chart, say, Texarkana and did not have a car or</p> <p>21 the ability to get to a DPS office and that was my only</p> <p>22 constraint, could I apply -- could I successfully apply</p> <p>23 for the homebound service you described?</p> <p>24 A. You could.</p> <p>25 Q. Would I successfully apply -- would DPS grant</p>
<p style="text-align: right;">202</p> <p>1 for those people to get to a DL office?</p> <p>2 Q. Yes. Or any form of assistance designed to</p> <p>3 enable them.</p> <p>4 A. There is a method that we can enable them in</p> <p>5 certain circumstances.</p> <p>6 Q. And what are those circumstances?</p> <p>7 A. We call it homebound.</p> <p>8 Q. Homebound?</p> <p>9 A. Or if --</p> <p>10 Q. Can you describe that for me?</p> <p>11 A. -- if an individual for whatever reason is</p> <p>12 physically challenged and can't get to a driver license</p> <p>13 office and needs to do a driver license renewal or an</p> <p>14 ID card renewal, then depending on those circumstances</p> <p>15 we may dispatch a CSR to their home or their place of</p> <p>16 residence and process their renewal or the address</p> <p>17 change, whatever they're after.</p> <p>18 Q. And that service is also available for EICs?</p> <p>19 A. Yes, it would be.</p> <p>20 Q. And how many people have availed themselves of</p> <p>21 that opportunity to get -- to apply for an EIC?</p> <p>22 A. None that I'm aware of.</p> <p>23 Q. And I guess my question that's -- thank you</p> <p>24 for -- for telling me about that. I wasn't --</p> <p>25 A. Well, let me --</p>	<p style="text-align: right;">204</p> <p>1 that request?</p> <p>2 A. Generally, yes.</p> <p>3 Q. If someone --</p> <p>4 A. I mean -- go ahead.</p> <p>5 Q. I'm sorry. Please go ahead.</p> <p>6 A. If -- you know, depending on the circumstances</p> <p>7 if -- you know, we certainly don't have staff to do</p> <p>8 homebound visits for everyone that might apply. But if</p> <p>9 your circumstances were if you're elderly or infirm or</p> <p>10 whatever the case is that would prevent you --</p> <p>11 legitimately prevent you from coming into the office,</p> <p>12 then we would consider a homebound visit.</p> <p>13 Q. The circumstance in my question was I don't</p> <p>14 own a car and I live in a county without public</p> <p>15 transportation, could I successfully apply for a</p> <p>16 homebound service?</p> <p>17 A. Are there any other circumstances other than</p> <p>18 that you don't own a car?</p> <p>19 Q. No, I don't own a car.</p> <p>20 A. No, sir.</p> <p>21 Q. Okay is there a document or guideline written</p> <p>22 down somewhere that define the criteria for the</p> <p>23 homebound service?</p> <p>24 A. No, sir.</p> <p>25 Q. So this is just up to each individual DPS</p>

JOE PETERS

4/30/2014

52 (Pages 205 to 208)

<p style="text-align: right;">205</p> <p>1 office?</p> <p>2 A. To determine whether or not they're going to</p> <p>3 D.A. homebound visit.</p> <p>4 Q. With no directive or guidance from the central</p> <p>5 leadership of DPS?</p> <p>6 A. I'm not aware of any written directive or</p> <p>7 guidance along those lines.</p> <p>8 Q. Okay. Thank you.</p> <p>9 One last set of questions just on the</p> <p>10 location of DPS offices. And this -- it's on Tab 1.</p> <p>11 THE REPORTER: Exhibit 48.</p> <p>12 (Exhibit 48 marked.)</p> <p>13 Q. (BY MR. DUNBAR) And, Mr. Peters, have you</p> <p>14 seen this document before?</p> <p>15 A. I have. Well, I've seen it in a color form.</p> <p>16 Q. In a color form, sure. And was this -- this</p> <p>17 document shows -- references data from Texas State</p> <p>18 University, so was this document produced in connection</p> <p>19 with the mega center location analysis that you were</p> <p>20 talking about earlier?</p> <p>21 A. This was produced in connection not with the</p> <p>22 mega center locations but after the mega centers</p> <p>23 were -- were already under construction. And we were</p> <p>24 looking to see what the driver or an applicant would</p> <p>25 have to -- how far an applicant would have to drive to</p>	<p style="text-align: right;">207</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. How were the distance metrics chosen; that is,</p> <p>4 25 miles and 50 miles?</p> <p>5 A. It was arbitrary, just pulled it out of the</p> <p>6 air.</p> <p>7 Q. So -- okay. So you pulled those numbers from</p> <p>8 the air. I guess was consideration given to the</p> <p>9 burdens that, say, someone living 23 miles from a DPS</p> <p>10 might have in getting to a DPS office?</p> <p>11 A. No.</p> <p>12 Q. And would you agree with me that if you chose,</p> <p>13 say, a radius of ten miles, this chart looks a lot</p> <p>14 different, particularly in its bright colorful form,</p> <p>15 doesn't it?</p> <p>16 A. It would.</p> <p>17 Q. And it would look like there's a lot less</p> <p>18 coverage in the state; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And your testimony, then, is that the 25-mile</p> <p>21 and the 50-mile distances were chosen arbitrarily; is</p> <p>22 that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And was there any -- has DPS, in connection</p> <p>25 with this particular chart or more generally, done any</p>
<p style="text-align: right;">206</p> <p>1 get to the office. We wanted to see what the level of</p> <p>2 coverage we had within a 25-mile radius of the existing</p> <p>3 driver license offices.</p> <p>4 Q. So did DPS itself prepare this document?</p> <p>5 A. Staff at DPS did based on information that</p> <p>6 they got from the government partnership program at</p> <p>7 Texas State University.</p> <p>8 Q. And what was the specific purpose of creating</p> <p>9 this document?</p> <p>10 A. To determine how many counties and how many</p> <p>11 people would not be served within a 25-mile radius of a</p> <p>12 driver license office.</p> <p>13 Q. For the purpose of figuring out where to</p> <p>14 locate new DPS offices or for the purpose of figuring</p> <p>15 out to where to send mobile EIC units.</p> <p>16 A. More the later, to figure out where we needed</p> <p>17 to put mobile EIC units.</p> <p>18 Q. Okay. And so the document I gave you has two</p> <p>19 sides. One, you'll see, says "Percentage of population</p> <p>20 within 25 miles of DL office," which I think you</p> <p>21 previously defined to be a driver's license office; is</p> <p>22 that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And the other chart shows the percentage of</p> <p>25 population within 50 miles of a DL office; is that</p>	<p style="text-align: right;">208</p> <p>1 analysis of the cost associated -- the cost or burdens</p> <p>2 associated with a Texas resident traveling some</p> <p>3 distance to use a DPS service?</p> <p>4 MR. KEISTER: Objection, vague.</p> <p>5 A. No.</p> <p>6 Q. (BY MR. DUNBAR) No studies have been done</p> <p>7 like that?</p> <p>8 A. Huh-uh.</p> <p>9 Q. I would now like to shift gears a little bit</p> <p>10 and ask a few questions about the effect of the EIC</p> <p>11 program on DPS' overall delivery of services, and this</p> <p>12 will be an area where I'll be jumping around even a bit</p> <p>13 more than I have been because we have covered some of</p> <p>14 this ground before.</p> <p>15 But just so I understand your -- I</p> <p>16 believe your prior testimony correctly, during the</p> <p>17 legislative debates leading up to the enactment of S.B.</p> <p>18 14, did anyone in the legislature reach out to DPS to</p> <p>19 solicit its views on the specific issue of having DPS</p> <p>20 be the agency that issues EICs?</p> <p>21 A. I'm not aware of it. But typically that</p> <p>22 happens and since we did prepare a bill analysis for</p> <p>23 internal use, that the -- there was some contact made.</p> <p>24 Q. And is this bill analysis you're referencing</p> <p>25 different from the fiscal note you previously</p>

JOE PETERS

4/30/2014

53 (Pages 209 to 212)

<p style="text-align: right;">209</p> <p>1 mentioned?</p> <p>2 A. That's correct.</p> <p>3 Q. And do you know if this bill analysis has been</p> <p>4 produced in this litigation?</p> <p>5 A. I don't.</p> <p>6 MR. DUNBAR: Does counsel for Texas know?</p> <p>7 MR. KEISTER: I don't know.</p> <p>8 Q. (BY MR. DUNBAR) Okay. And can you describe</p> <p>9 who -- so you've seen -- you weren't there when this</p> <p>10 bill analysis was produced, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. But you've seen this document before?</p> <p>13 A. I have.</p> <p>14 Q. Can you describe what this document said?</p> <p>15 A. There are various questions that -- it's an</p> <p>16 internal document.</p> <p>17 Q. Uh-huh.</p> <p>18 A. And there are various questions that staff has</p> <p>19 to respond to with respect to the language that's in</p> <p>20 the legislation. You know, how is it going to affect</p> <p>21 our operation? What's it going to cost us? What IT</p> <p>22 implications are there? Questions such as that.</p> <p>23 Q. Were there any questions along the lines of</p> <p>24 whether it made sense to have a traditional law</p> <p>25 enforcement agency be tasked with the responsibility</p>	<p style="text-align: right;">211</p> <p>1 A. No. Well, we process 7 million transactions</p> <p>2 every year in the driver's license offices, and we've</p> <p>3 had 269 applications for EICs. It would be hard to</p> <p>4 believe that there was a significant impact on DL</p> <p>5 operations.</p> <p>6 Q. Right. And so I believe you testified earlier</p> <p>7 that or stated on the record earlier that you hadn't</p> <p>8 heard of anyone internally complaining about the EIC</p> <p>9 mandate at least to you; is that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. I want to see -- excuse me. My notes are</p> <p>12 getting a little turned around here.</p> <p>13 MR. DUNBAR: Hasan, could I get the tab</p> <p>14 that the -- yes.</p> <p>15 THE REPORTER: Exhibit 49.</p> <p>16 (Exhibit 49 marked.)</p> <p>17 Q. (BY MR. DUNBAR) And, Mr. Peters, have you</p> <p>18 seen this e-mail before?</p> <p>19 A. I have.</p> <p>20 Q. And it appears to be an e-mail from a</p> <p>21 Robert Bodisch. Am I saying that name right?</p> <p>22 A. That's correct.</p> <p>23 Q. He is the Assistant Director, Chief of Staff,</p> <p>24 Texas Homeland Security; is that correct?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">210</p> <p>1 for issuing voter identification cards?</p> <p>2 A. No, sir, not that I've seen.</p> <p>3 Q. You've never seen any documents that raise</p> <p>4 those types of issues?</p> <p>5 A. No, sir.</p> <p>6 Q. And did DPS -- I believe in the fiscal note,</p> <p>7 but I just want to make sure I understand that this is</p> <p>8 exhaustive.</p> <p>9 Is the fiscal note the only attempt DPS</p> <p>10 did prior to S.B. 14's enactment to quantify the costs</p> <p>11 the EIC obligation might have on the agency?</p> <p>12 A. That's the only one I'm aware of.</p> <p>13 Q. Okay. And has DPS made any efforts to study</p> <p>14 or quantify the costs of EIC mandate since S.B. 14's</p> <p>15 enactment other than, I believe you referenced a</p> <p>16 document, that \$845,000 total --</p> <p>17 A. That's the.</p> <p>18 Q. -- is that correct?</p> <p>19 A. -- only one I'm aware of.</p> <p>20 Q. So purely in fiscal terms, but has there been</p> <p>21 any analysis that's been done to evaluate whether the</p> <p>22 EIC responsibility has interfered with DPS' ability to</p> <p>23 carry out any of its traditional statutory missions?</p> <p>24 A. There's not been an analysis done.</p> <p>25 Q. No type of analysis like that has been done?</p>	<p style="text-align: right;">212</p> <p>1 Q. And that's part of the Texas Department of</p> <p>2 Public Safety; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And looking at the 9-23-2013 e-mail on which</p> <p>5 you're copied, is where I wanted to start.</p> <p>6 MR. DUNBAR: Well, and I note, I guess</p> <p>7 just to be fair, the bottom part of this e-mail is the</p> <p>8 one you have just suggested is subject to the clawback.</p> <p>9 MR. KEISTER: Okay.</p> <p>10 MR. DUNBAR: I don't want to talk about</p> <p>11 that e-mail. I want to talk about the top e-mail.</p> <p>12 MR. KEISTER: Okay.</p> <p>13 MR. DUNBAR: So I guess I want to make</p> <p>14 sure I don't --</p> <p>15 MR. KEISTER: To the extent I objected to</p> <p>16 the previous -- that part of the previous e-mail, I'll</p> <p>17 also make the objection on this, to that part of the</p> <p>18 e-mail and I'll also request to claw it back.</p> <p>19 MR. DUNBAR: Okay.</p> <p>20 MR. KEISTER: But I don't see any problem</p> <p>21 with the top part, do you?</p> <p>22 MR. DUNBAR: Okay. I guess for the</p> <p>23 clawback purposes for that, I guess we may need just a</p> <p>24 redacted version of the -- do we need to go off the</p> <p>25 record again?</p>

JOE PETERS

4/30/2014

54 (Pages 213 to 216)

<p style="text-align: right;">213</p> <p>1 MR. KEISTER: Yeah.</p> <p>2 MR. DUNBAR: Okay.</p> <p>3 THE REPORTER: Off the record.</p> <p>4 (Discussion off the record.)</p> <p>5 THE REPORTER: Back on the record.</p> <p>6 MR. KEISTER: I'm not sure where we were,</p> <p>7 but with respect to Exhibit 49, once again the bottom</p> <p>8 e-mail, which is from Joe Peters and dated July 3rd,</p> <p>9 2013, we believe that was inadvertently produced and is</p> <p>10 attorney/client, and we will be requesting for that to</p> <p>11 be clawed back.</p> <p>12 With respect to the top e-mail, which I</p> <p>13 think is what you want to talk about today, that part</p> <p>14 is fine.</p> <p>15 MR. DUNBAR: Okay. And to clear up for</p> <p>16 the record and the court reporter, would the best</p> <p>17 process be for Texas to produce a redacted copy of this</p> <p>18 exhibit for purposes of -- of this document or does the</p> <p>19 State have an objection to that approach?</p> <p>20 MR. KEISTER: No, I think that would be</p> <p>21 good. Assuming everybody agrees that it's subject to</p> <p>22 clawback, then I -- then we'll certainly do that.</p> <p>23 Ought to be easy enough. Or if you</p> <p>24 wanted to just redact it, would that be okay for her</p> <p>25 just to redact that part?</p>	<p style="text-align: right;">215</p> <p>1 internal grumbling about waste of tax dollars."</p> <p>2 Then he goes on to say, "We don't have</p> <p>3 the funds for what we are currently doing. Pulling all</p> <p>4 of the CSRs out of existing DL offices will severely</p> <p>5 degrade our DL mission."</p> <p>6 Did I read those parts of the e-mail</p> <p>7 correctly?</p> <p>8 A. Yes, you did.</p> <p>9 Q. Okay. And would you agree with the</p> <p>10 characterization that this seems to be a complaint by</p> <p>11 someone within DPS about assuming the EIC, about the</p> <p>12 costs associated with the EIC mission?</p> <p>13 A. I wouldn't characterize it as a complaint.</p> <p>14 What I would say is that it was an assessment from</p> <p>15 Mr. Bodisch's perspective of the potential effects on</p> <p>16 DPS or -- excuse me, driver license division.</p> <p>17 Q. Okay. And he specifically referenced a</p> <p>18 concern that at least in connection with the mobile EIC</p> <p>19 stations the resource constraints would, quote,</p> <p>20 "Severely degrade our DL mission"; is that correct?</p> <p>21 A. That's what it says. And we mitigated that by</p> <p>22 taking the CSRs out of the larger offices where we had</p> <p>23 more CSRs.</p> <p>24 Q. So in your --</p> <p>25 A. We didn't close an office down to do EIC or</p>
<p style="text-align: right;">214</p> <p>1 MR. FREEMAN: That would be fine for us --</p> <p>2 THE REPORTER: Everybody agree that I can</p> <p>3 do it?</p> <p>4 MR. DUNBAR: Yeah, we can do it.</p> <p>5 MR. BRAZIL: That would be fine.</p> <p>6 MR. KEISTER: That would be a lot less</p> <p>7 confusing and that was on 49 and also on --</p> <p>8 THE REPORTER: I'm going off the record</p> <p>9 because I can't write and talk at the same time.</p> <p>10 (Discussion off the record.)</p> <p>11 THE REPORTER: Back on the record.</p> <p>12 MR. DUNBAR: Back on the record.</p> <p>13 Q. (BY MR. DUNBAR) Okay. So talking about</p> <p>14 the -- I believe we were talking about the top e-mail</p> <p>15 from Mr. Bodisch to -- well, to himself, apparently,</p> <p>16 and to MacGregor Stevenson with you copied; is that</p> <p>17 correct, Mr. Peters?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Who is Stevenson MacGregor?</p> <p>20 A. MacGregor Stevenson is with the office of the</p> <p>21 governor.</p> <p>22 Q. And looking at the e-mail, the e-mail says,</p> <p>23 "What you may not understand is that we are currently</p> <p>24 pulling trained customer service representatives out of</p> <p>25 busy DL offices to fill the 25 mobile teams. Lots of</p>	<p style="text-align: right;">216</p> <p>1 the mobiles.</p> <p>2 Q. So Mr. Bodisch is concerned that the EIC</p> <p>3 mandate would severely degrade the DL mission turned</p> <p>4 out to be incorrect. Is that your testimony?</p> <p>5 A. I would say it was not totally accurate based</p> <p>6 on our experience. You know, when this was written in</p> <p>7 September there was still that potential. We were</p> <p>8 coming up on November election and we had -- we didn't</p> <p>9 have any idea what to expect.</p> <p>10 Q. And are there others within DPS still who have</p> <p>11 concerns that the EIC mission could interfere with the,</p> <p>12 quote/unquote, "DL mission"?</p> <p>13 A. Based on our experience since June 26th, I</p> <p>14 think those fears have been allayed.</p> <p>15 Q. And what is the experience since June 26th,</p> <p>16 you simply mean the rollout of the various mobile EIC</p> <p>17 units and the DPS offices handling EIC applications?</p> <p>18 A. One is the volume of applicants that have</p> <p>19 applied for volume of people that have applied for</p> <p>20 EICs.</p> <p>21 Two is that we were over the hump of</p> <p>22 where we had to buy equipment, which was a significant</p> <p>23 expense. You know the equipment is already out there.</p> <p>24 We don't have to worry about that anymore.</p> <p>25 Three is that we have, I think, 52</p>

JOE PETERS

4/30/2014

55 (Pages 217 to 220)

<p style="text-align: right;">217</p> <p>1 counties that are now providing EIC services with their 2 staff which means that DPS does not have to furnish 3 staff for those mobile sites any longer. 4 Q. Uh-huh. And is there any -- I believe your 5 testimony was before there is no specific line item in 6 DPS's appropriation -- or in the transportation budget 7 generally for EIC unit; is that correct? 8 A. That's correct. 9 Q. So if there were unexpected needs in some of 10 the other, quote/unquote, "DL mission," you would face 11 resource constraints just like any agency; is that 12 correct? 13 A. Yes, sir. 14 Q. And is it fair to say that DPS's core mission 15 prior to the enactment of S.B. 14 was a law enforcement 16 mission? 17 A. Yes, sir. Well, actually the driver license 18 mission is -- is almost as large as the law enforcement 19 mission. 20 Q. Right. And you testified, I think, about your 21 background is in law enforcement; is that correct? 22 A. Correct. 23 Q. So you were chosen for this position at the 24 head of the DL division largely on the strength of your 25 law enforcement credentials; is that correct?</p>	<p style="text-align: right;">219</p> <p>1 made sense to impose this new EIC obligation on DPS for 2 that reason? 3 A. Yes, sir. We could not argue against it. 4 Q. I would like to talk about a new exhibit. 5 MR. DUNBAR: Hasan, give me Exhibit 9, 6 please. I'm sorry tab for the record, that's tab in 7 our folder, not Exhibit 9. 8 (Exhibit 50 marked.) 9 Q. (BY MR. DUNBAR) Mr. Peters, have you seen 10 this e-mail exchange before? 11 A. Whoops. Yes, sir. 12 Q. And I want to turn your attention to, I guess, 13 the last e-mail which is the September 10th, 2013, 14 e-mail from a Robert Herd? 15 A. Wait a minute. The last e-mail? In the 16 string or the first e-mail in the string? 17 Q. Sorry, yeah, the first e-mail in the string. 18 Last on the -- last physically. 19 A. Okay. 20 Q. But first e-mail on the string. Good point. 21 A. That's the September 10, 2013 at 12:12. 22 Q. That's right. 23 A. Got you. 24 Q. And that's an e-mail from a Mr. Herd to a 25 Tracie Henson and Shaya Birch; is that correct?</p>
<p style="text-align: right;">218</p> <p>1 A. I don't think it was so much on the basis of 2 my law enforcement experience. It was management 3 experience that I had with when I was working for the 4 Sheriff's Association under the DOJ grant and as a 5 highway patrol sergeant, as a Ranger sergeant. 6 Q. Right. And I believe you said that, perhaps 7 in jest, that it was debatable whether you had 8 expertise in EIC implementation? 9 A. That's correct. 10 Q. And I guess my question is, in, again, not 11 your personal opinion but in your capacity as 12 representative of DPS, does it make sense for DPS 13 rather than, say, the Secretary of State or some other 14 agency to have assumed a function so closely related to 15 elections? 16 A. In terms of the resources available to DPS it 17 made sense for DPS to do that. 18 Q. Because DPS had a lot of extra resources? 19 A. Well, no, not that they had a lot of extra 20 resources, that we had resources -- we had 227 driver's 21 licenses offices out there and 18- or 1,900 CSRs that 22 could issue driver's licenses, EICs and ID cards. 23 Q. So it makes sense in your view that there was 24 a basic convenience factor that the apparatus to issue 25 driver licenses was spread across the State, and it</p>	<p style="text-align: right;">220</p> <p>1 A. Yes, sir. 2 Q. Do you know who Mr. Herd is? 3 A. I believe he is the Dallas County voter 4 registrar. 5 Q. Yeah, the bottom of the e-mail references the 6 Dallas County Elections Department Administrator. 7 A. Yeah. 8 Q. You're exactly right. I don't know if that's 9 his position today, but at least at the time and then 10 who are Tracy Henson and Shaya Birch? 11 A. I don't know. 12 Q. Okay. And looking at the e-mail, it appears 13 to be a request for assistance from DPS to deploy 14 mobile EIC units at various events. Is that an 15 accurate -- 16 A. Yes, sir. 17 Q. -- summary of the e-mail? 18 A. Yes, sir. 19 Q. And then there's a series of forwards of the 20 e-mail from -- the one I want to turn to, I guess, is 21 on September 10th, 2013, at 19:21, a JoAnn Mastrachio 22 says, "Tony, I'm handing this one off to the EIC guru." 23 Do you see that? 24 A. At 19:21? Yes, I see that. 25 Q. And is it your understanding in this e-mail</p>

JOE PETERS

4/30/2014

56 (Pages 221 to 224)

<p style="text-align: right;">221</p> <p>1 the EIC guru is a reference to Mr. Rodriguez?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. And then Mr. Rodriguez turns around and</p> <p>4 sends the e-mail chain on Tuesday, September 10th at</p> <p>5 2:13 to Mr. Watkins, who I believe you testified is one</p> <p>6 your deputies?</p> <p>7 A. Yes.</p> <p>8 Q. And yourself --</p> <p>9 A. Yes.</p> <p>10 Q. -- is that correct?</p> <p>11 And what are the first two words of his</p> <p>12 e-mail?</p> <p>13 A. "Mission creep."</p> <p>14 Q. And what did you understand Mr. Rodriguez to</p> <p>15 mean by "mission creep" when you saw this e-mail?</p> <p>16 A. That the mission was expanding.</p> <p>17 Q. And in what way was the mission expanding?</p> <p>18 A. By deploying the mobilizations.</p> <p>19 Q. And would you agree with me that "mission</p> <p>20 creep" carries a negative connotation?</p> <p>21 A. It could.</p> <p>22 Q. Did you understand it to be that?</p> <p>23 A. I can't say that I did. I mean --</p> <p>24 Q. You don't recall --</p> <p>25 A. It was a --</p>	<p style="text-align: right;">223</p> <p>1 what we initially assessed.</p> <p>2 Q. But I thought you just testified that you</p> <p>3 understand mission creep to carry a negative</p> <p>4 connotation.</p> <p>5 A. It could.</p> <p>6 MR. KEISTER: Y'all are killing the court</p> <p>7 reporter.</p> <p>8 Q. (BY MR. DUNBAR) Okay. What was the ultimate</p> <p>9 resolution of Dallas County's request?</p> <p>10 A. We sent mobile units to Dallas County.</p> <p>11 Q. So Dallas County won over Mr. Rodriguez's</p> <p>12 objections?</p> <p>13 A. Yes.</p> <p>14 Q. And do you know who ultimately made that</p> <p>15 decision? Was that your decision?</p> <p>16 A. Well, I was probably involved in that decision</p> <p>17 that we were going to do it; but it was, you know, at</p> <p>18 the request of and guidance from the Secretary of</p> <p>19 State's office.</p> <p>20 Q. And have you heard other -- have there been</p> <p>21 other references to mission creep in connection with</p> <p>22 the EIC units during your tenure at DPS?</p> <p>23 A. No.</p> <p>24 Q. This was the only one?</p> <p>25 A. And I didn't even remember that one. It just</p>
<p style="text-align: right;">222</p> <p>1 Q. -- whether you understood --</p> <p>2 A. -- a fact, you know, that we -- we had these</p> <p>3 requests and we -- we were going to do the best we</p> <p>4 could to comply.</p> <p>5 Q. So you -- so your testimony is that you</p> <p>6 understand Mr. Rodriguez's e-mail to reflect that it</p> <p>7 was a negative development that a county was asking for</p> <p>8 expanded mobile EIC access; is that correct?</p> <p>9 A. Well, yes. And I understand that</p> <p>10 Mr. Rodriguez is -- has an extensive military</p> <p>11 background and is -- currently serves as a</p> <p>12 major-general in the state guard, so he is familiar</p> <p>13 with many missions of all types. And I'm sure that's a</p> <p>14 common reference that the military uses. It was when I</p> <p>15 was there.</p> <p>16 Q. Understood. But I guess for clarity, I just</p> <p>17 mean that it carries a negative connotation.</p> <p>18 A mission creep is not a good thing; is</p> <p>19 that correct?</p> <p>20 A. It could -- it could, yes.</p> <p>21 Q. Why would Mr. Rodriguez have represented the</p> <p>22 request as mission creep in your view?</p> <p>23 A. I think it -- rather than a negative</p> <p>24 connotation, it was that we need to expand, you know,</p> <p>25 the mission is broader or about to become broader than</p>	<p style="text-align: right;">224</p> <p>1 didn't stick out in my mind.</p> <p>2 Q. Fair enough. So I know we've had a lot of</p> <p>3 questions about mobile EIC stations. I want to really</p> <p>4 just ask some basic clarifications.</p> <p>5 I understand there have been three phases</p> <p>6 of the mobile EIC program; is that correct?</p> <p>7 A. Yeah. It depends on who you talk to and what</p> <p>8 their understanding of a phase is, but go ahead.</p> <p>9 Q. But to be clear, this comes from Mr. Ingram's</p> <p>10 deposition --</p> <p>11 A. Yes.</p> <p>12 Q. -- where there clearly were phases delineated</p> <p>13 and this was the first time -- maybe it was my own</p> <p>14 fault -- that I had heard of these phases. So I want</p> <p>15 to make sure I understand them correctly.</p> <p>16 What would Phase 1 of the EIC program be</p> <p>17 in your view?</p> <p>18 A. Phase 1 would have been -- if I remember</p> <p>19 correctly, it was the Secretary of State's 25 mobile</p> <p>20 stations and their assignments.</p> <p>21 Q. So Phase 1 is the 25?</p> <p>22 A. That's my understanding.</p> <p>23 Q. Okay. I may have misunderstood. I thought</p> <p>24 that was the Phase 2.</p> <p>25 A. Well, I've tried not to refer to them as</p>

JOE PETERS

4/30/2014

57 (Pages 225 to 228)

<p style="text-align: right;">225</p> <p>1 phases because it's too confusing. If I just said</p> <p>2 Phase 1 or Phase 2 or Phase 3, nobody knows what we're</p> <p>3 talking about. But if I say Secretary of State's</p> <p>4 mobile deployment, everybody knows what we're talking</p> <p>5 about.</p> <p>6 Q. You should pass that along to Mr. Ingram.</p> <p>7 A. I will.</p> <p>8 Q. For all of our sakes.</p> <p>9 Okay. So I will sometimes use the</p> <p>10 nomenclature, just to help understand what he might</p> <p>11 have been referring to but also ask: The Phase 1 in</p> <p>12 your view, to the extent there was a Phase 1, is the</p> <p>13 25 -- the 25 Secretary of State mobile EIC units; is</p> <p>14 that correct?</p> <p>15 A. As I recall, yes, sir.</p> <p>16 Q. And who made -- this is the Secretary of</p> <p>17 State's initiative. Was it the Secretary of State's</p> <p>18 idea to launch the 25 mobile EIC units?</p> <p>19 A. It was a collective decision to launch those</p> <p>20 25 units and -- because the Secretary of State offered</p> <p>21 to purchase those units. Initially, the Secretary of</p> <p>22 State offered to provide funding to DPS to buy those</p> <p>23 units. Then it was determined that they couldn't</p> <p>24 provide DPS the funding; that they had to pay for them</p> <p>25 themselves, and they had to own them. And that's when</p>	<p style="text-align: right;">227</p> <p>1 that you're talking about.</p> <p>2 Q. (BY MR. DUNBAR) But who made that ultimate</p> <p>3 determination?</p> <p>4 A. I can't pinpoint any single individual that</p> <p>5 made that decision.</p> <p>6 Q. So sitting here today, DPS has no view on who</p> <p>7 came up with or ultimately decided on the Phase 1 of</p> <p>8 the mobile EIC initiative?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. And so Phase 1 or the 25 mobile</p> <p>11 stations, that -- that program is ongoing; is that</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And is there a permanent appropriation for</p> <p>15 those funds?</p> <p>16 A. No, sir.</p> <p>17 Q. So that program, like the entire EIC program,</p> <p>18 is subject to the discretion of either the Secretary of</p> <p>19 State or the Department of Public Safety; is that</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. And so Phase 3 of mobile EICs, at least the</p> <p>23 Secretary of State's office would describe, it refers</p> <p>24 to the county-led initiatives.</p> <p>25 Is that your understanding?</p>
<p style="text-align: right;">226</p> <p>1 they became the Secretary of State's property. And</p> <p>2 they made those purchases based on specifications</p> <p>3 recommended by DPS.</p> <p>4 Q. I see. And when you say this was a collective</p> <p>5 decision, though, I want to make sure I understand the</p> <p>6 universe of the collective decision making here.</p> <p>7 Was this DPS and the Secretary of State's</p> <p>8 office only?</p> <p>9 A. No.</p> <p>10 Q. Who else was involved?</p> <p>11 A. Governor staff was involved. The Secretary of</p> <p>12 State staff, DPS staff.</p> <p>13 Q. Where did the idea initiate from for mobile</p> <p>14 EICs?</p> <p>15 MR. KEISTER: To the extent this is going</p> <p>16 to require you to state any of the deliberative process</p> <p>17 that occurred in making this decision and to the extent</p> <p>18 it's going to require you to give any attorney/client</p> <p>19 information, I'm going to instruct you not to answer</p> <p>20 those questions. You can give the ultimate decision as</p> <p>21 to what was done, but don't give the background</p> <p>22 deliberations.</p> <p>23 THE WITNESS: Okay. The ultimate</p> <p>24 decision was that the Secretary of State would purchase</p> <p>25 and own those mobile stations, the 25 mobile stations</p>	<p style="text-align: right;">228</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. And you've testified a lot about that</p> <p>3 already, I believe; so I don't want to spend a lot of</p> <p>4 time other than to understand Phase 3 is a DPS-led</p> <p>5 initiative?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And who came up with the idea for the Phase 3</p> <p>8 initiative?</p> <p>9 A. Again, I can't pinpoint an individual.</p> <p>10 Q. Was it someone within DPS?</p> <p>11 A. Well, again, it was in collaboration with the</p> <p>12 Secretary of State as to how we were going to achieve</p> <p>13 coverage in all 254 counties.</p> <p>14 Q. Was DPS directed by any other agency in the</p> <p>15 state to carry out Phase 3?</p> <p>16 A. Not that I'm aware of. But there was</p> <p>17 encouragement to explore that.</p> <p>18 Q. But the ultimate decision -- your</p> <p>19 understanding is that the ultimate decision to say yea</p> <p>20 or nay to Phase 3 rested with who?</p> <p>21 A. DPS.</p> <p>22 Q. The head of DPS or the commission?</p> <p>23 A. Ultimately based on recommendations from</p> <p>24 staff.</p> <p>25 Q. Which among those two? Who would have the</p>

JOE PETERS

4/30/2014

58 (Pages 229 to 232)

<p style="text-align: right;">229</p> <p>1 final green light or red light authority with respect 2 to Phase 3?</p> <p>3 A. The director ultimately would have, but he 4 bases his -- or based his decisions on staff 5 recommendation.</p> <p>6 Q. Okay. And to the best of your understanding, 7 there's no other agency or department within the state 8 that could direct DPS to carry out Phase 3 even if the 9 department itself would rather not do it?</p> <p>10 A. No.</p> <p>11 Q. And what are the funding commitments -- what 12 funding does DPS need to carry out Phase 3?</p> <p>13 A. All we can get.</p> <p>14 Q. Have you made a request of the Texas 15 legislature, the OAG or, any other office for 16 additional funding to help with Phase 3?</p> <p>17 A. We asked the governor's office -- well, yeah, 18 we asked the governor's office for funding assistance 19 for EIC generally.</p> <p>20 Q. (BY MR. DUNBAR) And what was the response of 21 the governor's office?</p> <p>22 A. They told us we needed to submit a grant 23 application, and they would deal with it.</p> <p>24 Q. And has DPS submitted that grant application?</p> <p>25 A. We have.</p>	<p style="text-align: right;">231</p> <p>1 Q. I see. And have -- did that \$200,000 grant 2 alleviate the funding needs you just suggested are kind 3 of constant with respect to the EIC program?</p> <p>4 A. It reduced to severity of the funding impact 5 on our operations back.</p> <p>6 Q. Does DPS plan on reaching out to the governor 7 or the legislature for additional funding in connection 8 with the EICs?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And are those concrete proposals or requests 11 that have already been made?</p> <p>12 A. The requests, to my knowledge, have not been 13 made. They certainly haven't been made by my office 14 We have had discussion about making additional 15 requests.</p> <p>16 Q. And if those funding requests aren't 17 satisfied, what effect would that have on the 18 department of -- on DPS's EIC mission?</p> <p>19 A. I think the effect would be minimal in the 20 grand scheme of things, just because it would all come 21 out of our appropriated funds for operations.</p> <p>22 Q. So you would -- you would -- if faced with 23 underfunding in the EIC program, which you've described 24 as, in your view, not being particularly voluminous to 25 date, your testimony is you would take funding from</p>
<p style="text-align: right;">230</p> <p>1 Q. And do you know, was that grant application 2 produced in this litigation?</p> <p>3 A. I don't know.</p> <p>4 MR. DUNBAR: Same question to counsel.</p> <p>5 MR. KEISTER: I don't know, Counsel. I'm 6 not saying it has or hasn't. I just don't know.</p> <p>7 MR. DUNBAR: I understand. We'll take a 8 look at the transcript and see if we want to look for 9 it and make a request for that.</p> <p>10 Q. (BY MR. DUNBAR) Can you describe for me what 11 was in the grant proposal?</p> <p>12 A. We requested \$200,000 in funding for election 13 identification.</p> <p>14 Q. And is that an annual -- on an annual basis 15 \$200,000?</p> <p>16 A. No, sir. It's one time.</p> <p>17 Q. A one-time \$200,000 grant?</p> <p>18 A. Yes, sir.</p> <p>19 Q. What would that allow you to accomplish?</p> <p>20 A. Well, it allowed us to purchase mobile 21 equipment for mobile stations.</p> <p>22 Q. I see. So the \$200,000 has been granted?</p> <p>23 A. Yes.</p> <p>24 Q. It was a successful grant?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">232</p> <p>1 other DPS missions to satisfy the -- the full EIC 2 requirements?</p> <p>3 A. We would take it from the driver license 4 operational budget.</p> <p>5 Q. At the expense of your core driver's license 6 services?</p> <p>7 A. Correct.</p> <p>8 Q. And is that based on a particular priority 9 between EICs and driver's license mission?</p> <p>10 A. They're all in the same budget.</p> <p>11 Q. Right. Understood. But I guess my question 12 is: Is there a rule or regulation or law that would 13 require EIC funding to be given priority when DPS is 14 faced with a budget shortfall across the board?</p> <p>15 A. Not that I'm aware of.</p> <p>16 Q. But your testimony is, is that you would pull 17 dollars from your other services to fund EICs in that 18 circumstance?</p> <p>19 A. Correct.</p> <p>20 Q. And why is that?</p> <p>21 A. Because that's all we've got.</p> <p>22 Q. Right. But to be clear, you could choose to 23 keep your money in the driver's license mission and not 24 fund fully EIC?</p> <p>25 A. But EIC is part of the driver license mission.</p>

JOE PETERS

4/30/2014

59 (Pages 233 to 236)

<p style="text-align: right;">233</p> <p>1 Q. And in your view they're all equally</p> <p>2 important?</p> <p>3 A. Absolutely.</p> <p>4 Q. If you were faced, as a director of the</p> <p>5 driver's license division, with a choice between fully</p> <p>6 funding the driver's license -- the traditional core</p> <p>7 driver's license services or EIC issuance, which choice</p> <p>8 would you make?</p> <p>9 A. If it meant disenfranchising a potential voter</p> <p>10 and EIC, I would opt for EIC.</p> <p>11 Q. So you've decided. You've made DPS -- you,</p> <p>12 individually, as the director of the driver's license</p> <p>13 division, have made a decision on that front.</p> <p>14 Is there a statute or regulation that</p> <p>15 ensures that choice will always be made?</p> <p>16 A. I have not made that decision because it</p> <p>17 hasn't been presented yet. But should it be presented,</p> <p>18 that's what I would decide based on what I know today.</p> <p>19 Q. That would be my question is that would be</p> <p>20 your personal choice. That's not necessarily something</p> <p>21 that's legally required?</p> <p>22 A. That's correct. It's not legally required.</p> <p>23 Q. Okay. I just had a few more quick follow-up</p> <p>24 questions. Well, actually a topic we've touched a bit</p> <p>25 about before, which is -- this relates to DPS topic --</p>	<p style="text-align: right;">235</p> <p>1 specifically.</p> <p>2 Q. Okay. And to your knowledge, has DPS received</p> <p>3 complaints from members of the public regarding</p> <p>4 issuance of EICs?</p> <p>5 A. There may have been some; but you know, they</p> <p>6 were resolved before they got to me unless there was a</p> <p>7 particular issue. And I can't recall one, not to say</p> <p>8 that there weren't any.</p> <p>9 Q. And is there a policy -- well, let's say to</p> <p>10 date there have been 20 e-mails that have been sent to</p> <p>11 the public inquiries' e-mail address or -- and/or ten</p> <p>12 phone calls that have been made to complain about EIC</p> <p>13 issuance, whether it's notice, whether it's hours of</p> <p>14 availability, whatever the complaint.</p> <p>15 Would DPS have records of those</p> <p>16 specifically identifying these as EIC complaints?</p> <p>17 A. Yes.</p> <p>18 Q. They would. And do you know, to your</p> <p>19 knowledge, do such records exist?</p> <p>20 A. Well, anything that goes to public inquiries</p> <p>21 or any phone call that comes into our call center are</p> <p>22 logged and the purpose of the call and the purpose of</p> <p>23 the complaint -- subject of the complaint is</p> <p>24 documented.</p> <p>25 Q. And are you aware, have any records related to</p>
<p style="text-align: right;">234</p> <p>1 Topic 13, which is any complaints or concerns raised</p> <p>2 about the distribution of EICs. And so we've covered</p> <p>3 some of this ground, I think, already; but just so the</p> <p>4 record is clear, I'm clear, I didn't miss anything.</p> <p>5 Does DPS have a formal process through</p> <p>6 which it receives criticism or general feedback from</p> <p>7 the public for any of its services?</p> <p>8 A. Yes, we do.</p> <p>9 Q. What are those processes?</p> <p>10 A. We have an e-mail address that's public</p> <p>11 inquiries.</p> <p>12 Q. Uh-huh.</p> <p>13 A. DLD. And anyone can make a complaint or a</p> <p>14 compliment to public inquiries.</p> <p>15 Q. Okay. So where would --</p> <p>16 A. They can phone call.</p> <p>17 Q. And where would someone find the contact, this</p> <p>18 public inquiry's e-mail address or the phone number, on</p> <p>19 the DPS website?</p> <p>20 A. It's on the DPS website.</p> <p>21 Q. Okay. And is it specifically -- is it made</p> <p>22 clear on the DPS's website that these numbers and</p> <p>23 e-mail addresses can be used for complaints about EIC</p> <p>24 issuance?</p> <p>25 A. I don't recall that it mentions EIC</p>	<p style="text-align: right;">236</p> <p>1 EIC complaints that you're describing been produced in</p> <p>2 this litigation?</p> <p>3 A. I don't recall seeing specific complaints.</p> <p>4 And there may have been some.</p> <p>5 Q. Okay. And I know we've seen some e-mail</p> <p>6 traffic before that I won't march you through.</p> <p>7 You have -- DPS has received at least</p> <p>8 some complaints regarding the issuance of EICs from</p> <p>9 local or county election officials; is that correct?</p> <p>10 A. I don't recall that they were from county</p> <p>11 election officials, other than Dallas County and may</p> <p>12 have been one from -- or a couple from legislators.</p> <p>13 Q. Okay. Well, that was going to my next</p> <p>14 question, actually. And I'm not sure if we've seen the</p> <p>15 e-mails, but you have received some complaints about</p> <p>16 EIC issuance from Texas legislators; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And do you know on how many occasions you've</p> <p>19 received those complaints?</p> <p>20 A. No. I can't quantify it but very few.</p> <p>21 Q. Very few. Would there be records kept of that</p> <p>22 as well?</p> <p>23 A. There should be records. If they made the</p> <p>24 complaint through our Office of Government Relations,</p> <p>25 there will be a record.</p>

JOE PETERS

4/30/2014

60 (Pages 237 to 240)

<p style="text-align: right;">237</p> <p>1 Q. Okay. And has DPS -- everything we've</p> <p>2 described to date has been reactive in the sense it</p> <p>3 relies on someone complaining or telling DPS something.</p> <p>4 Has DPS made a proactive effort to</p> <p>5 determine whether, in connection with Phase 2 or Phase</p> <p>6 3 or, to use your terminology, the mobile units and the</p> <p>7 county units, whether the -- whether the processes are</p> <p>8 working smoothly without public complaint?</p> <p>9 A. I'm not sure I understood your question. You</p> <p>10 want to know if we've been proactive in trying to</p> <p>11 prevent those complaints, trying to take action to keep</p> <p>12 those complaints down?</p> <p>13 Q. No. Sorry. To clarify. It was a poorly</p> <p>14 worded question.</p> <p>15 My question is whether DPS has any</p> <p>16 mechanism in place to proactively solicit public</p> <p>17 feedback comment or criticism on the EIC program?</p> <p>18 A. We have a program in place where they can --</p> <p>19 the public can comment on any driver's license office</p> <p>20 transaction, whether it's ID cards, driver's license or</p> <p>21 EIC.</p> <p>22 Q. But that requires someone to affirmatively</p> <p>23 lodge a complaint with DPS; is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. Have you reached out to, say, community</p>	<p style="text-align: right;">239</p> <p>1 there, and just tell me if you are the person most</p> <p>2 knowledgeable to speak about those topics from DPS?</p> <p>3 A. (Witness complies with request.)</p> <p>4 And 13?</p> <p>5 Q. Yes, please.</p> <p>6 A. Okay.</p> <p>7 Q. Are you the person most knowledgeable to talk</p> <p>8 about topic No. 10, the training of DPS employees?</p> <p>9 A. I have some knowledge of it, but I'm not one</p> <p>10 of the trainers.</p> <p>11 Q. Okay.</p> <p>12 A. They would have, certainly, more in-depth</p> <p>13 knowledge than I would.</p> <p>14 Q. Okay. And did you talk to the trainers or</p> <p>15 review documents in preparation for --</p> <p>16 A. I did.</p> <p>17 Q. Okay. As to No. 11, are you the person most</p> <p>18 knowledgeable about this topic?</p> <p>19 A. Media and communications would be more</p> <p>20 knowledgeable than I am; although, I did approve</p> <p>21 initial drafts of some of the press releases.</p> <p>22 Q. Did you speak to anybody from media and</p> <p>23 communications in preparation for your deposition</p> <p>24 today?</p> <p>25 A. I don't recall that I did in preparation for</p>
<p style="text-align: right;">238</p> <p>1 leaders -- local community leaders to ask generally</p> <p>2 about how the EIC process has worked or how the process</p> <p>3 might be improved?</p> <p>4 A. I'm not aware of it, if we have. And that</p> <p>5 would have been out of media office primarily.</p> <p>6 Q. Out of the media office?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Okay. That's all I have. Thank you.</p> <p>9 THE REPORTER: Off the record.</p> <p>10 (Recess from 2:50 p.m. to 2:55 p.m.)</p> <p>11 THE REPORTER: Back on the record.</p> <p>12 EXAMINATION</p> <p>13 BY MS. CLARK:</p> <p>14 Q. Hi, Mr. Peters. It's been a while since we</p> <p>15 did introductions this morning. My name is Jennifer</p> <p>16 Clark, and I represent MALC and Texas NAACP. And I'm</p> <p>17 wondering if you could go back, if you still have it,</p> <p>18 to what was marked as Exhibit 36, a little while back.</p> <p>19 It's the 30(b)(6) notification.</p> <p>20 A. Yep.</p> <p>21 Q. If you could turn to Page 9. So I'll be</p> <p>22 focusing primarily on the topics that are listed in the</p> <p>23 middle of Page 9 here, starting with 10, 11, 12 and</p> <p>24 then perhaps a little bit on 13. If you could just</p> <p>25 take a moment and review the topics that are listed</p>	<p style="text-align: right;">240</p> <p>1 the deposition.</p> <p>2 Q. I see. Okay. And how about No. 12?</p> <p>3 A. With respect to -- are you talking about</p> <p>4 whether I --</p> <p>5 Q. Are you the person with the most knowledge?</p> <p>6 A. Well, with respect to the telephone help</p> <p>7 lines, our customer call center staff would be the most</p> <p>8 knowledgeable; although, I do have some knowledge of</p> <p>9 what they do.</p> <p>10 Q. Uh-huh.</p> <p>11 A. There are no Internet chat lines. Social</p> <p>12 medial communications would be by media and</p> <p>13 communications.</p> <p>14 Q. Uh-huh.</p> <p>15 A. No webinars. The only direct contact with</p> <p>16 specific voters was where one called into the call</p> <p>17 center --</p> <p>18 Q. Uh-huh.</p> <p>19 A. -- and we talked to them. As far as us making</p> <p>20 calls out to the voters, it was only if they had an</p> <p>21 issue. In some cases, where it -- with respect to</p> <p>22 EICs, if during quality assurance process, a problem</p> <p>23 was discovered, the license record service staff may</p> <p>24 call; in fact, did call some of the applicants to</p> <p>25 resolve whatever issues they had.</p>

JOE PETERS

4/30/2014

61 (Pages 241 to 244)

<p style="text-align: right;">241</p> <p>1 Q. And license and record service staff is</p> <p>2 something that's located centrally, or that's at each</p> <p>3 of the division offices?</p> <p>4 A. That's in the headquarters office here in</p> <p>5 Austin.</p> <p>6 Q. Okay. And as to No. 13, this has come up a</p> <p>7 couple of times; and I believe that you have testified</p> <p>8 that complaints wouldn't necessarily have come to you.</p> <p>9 Who would complaints have come to?</p> <p>10 A. They could have come through public inquiries</p> <p>11 via the Internet. They could have come to the call</p> <p>12 center. They could have come to a local office.</p> <p>13 Q. So did you speak to any of the people to whom</p> <p>14 complaints would have come in preparation for your</p> <p>15 deposition today?</p> <p>16 A. No.</p> <p>17 Q. You did not?</p> <p>18 A. I don't recall.</p> <p>19 Q. I see. Did you review any -- you mentioned</p> <p>20 that complaints are logged; is that correct?</p> <p>21 A. Uh-huh. Uh-huh.</p> <p>22 Q. Did you review any documents that reflect</p> <p>23 these logging of complaints in preparation for your</p> <p>24 deposition?</p> <p>25 A. I did.</p>	<p style="text-align: right;">243</p> <p>1 bit about training. And before we get to that, just</p> <p>2 generally speaking, I think you mentioned earlier that</p> <p>3 there's upwards of 2000 DPS employees.</p> <p>4 Do you know how many employees there are?</p> <p>5 A. Driver license employees or DPS employees?</p> <p>6 Q. I guess both.</p> <p>7 A. DPS employees are something over 9,000.</p> <p>8 Q. Uh-huh.</p> <p>9 A. And in driver's license division, I think we</p> <p>10 have 2,200 -- over 2,000.</p> <p>11 Q. Okay. So of those over 2,000 employees, how</p> <p>12 many of them, more or less, would be responsible for</p> <p>13 issuing EICs? How many would be on the front lines?</p> <p>14 A. I don't have that answer.</p> <p>15 Q. Okay. Is there a specific name for those</p> <p>16 employees who staff the desks and would be responsible</p> <p>17 for issuing EICs?</p> <p>18 A. Customer service representatives.</p> <p>19 Q. Okay. So do customer service representatives</p> <p>20 and other DPS employees receive training on a regular</p> <p>21 basis?</p> <p>22 A. They do ongoing training.</p> <p>23 Q. Ongoing training.</p> <p>24 What does "ongoing" mean?</p> <p>25 A. That means that periodically they -- they have</p>
<p style="text-align: right;">242</p> <p>1 Q. You did. So you would be able to speak to</p> <p>2 whether complaints have been logged?</p> <p>3 A. To the best of my recollection. I've slept</p> <p>4 since I reviewed that document.</p> <p>5 Q. Okay. And it -- is it accurate to say that</p> <p>6 you don't recall -- that DPS has not received</p> <p>7 complaints from individual members of the public with</p> <p>8 regards to EIC issuance?</p> <p>9 A. Say that again.</p> <p>10 Q. Is it correct to say that DPS has not received</p> <p>11 complaints from individual members of the public with</p> <p>12 regards to EIC issuance?</p> <p>13 A. That would not be correct.</p> <p>14 Q. So you have seen complaints?</p> <p>15 A. I have not necessarily seen the complaints,</p> <p>16 but I have been advised that there have been some</p> <p>17 complaints.</p> <p>18 Q. But you didn't see these complaint when you</p> <p>19 reviewed the feedback logs?</p> <p>20 A. No, not the complaints themselves.</p> <p>21 Q. Okay. Do you know if those logs were produced</p> <p>22 as part of this --</p> <p>23 A. I don't know.</p> <p>24 Q. -- as part of production? Okay. Thank you.</p> <p>25 All right. So I'm going to talk a little</p>	<p style="text-align: right;">244</p> <p>1 refresher training. If technology changes, they get</p> <p>2 refresher training.</p> <p>3 Q. Uh-huh.</p> <p>4 A. If significant rules or legislation are</p> <p>5 enacted or adopted that would affect their duties, then</p> <p>6 they're trained.</p> <p>7 Q. Okay. So are they trained -- in addition to</p> <p>8 this specialized training that you're talking about,</p> <p>9 are they just trained on an annual basis or regularly</p> <p>10 with regards to general procedure?</p> <p>11 A. There's not regularly scheduled training for</p> <p>12 them, but they -- we have our training force. We call</p> <p>13 them facilitators. We deploy them across the state;</p> <p>14 and they will conduct individualized training, if it's</p> <p>15 required on an as-needed basis.</p> <p>16 Q. So would you characterize S.B.14 and the</p> <p>17 creation of EICs as something that would have warranted</p> <p>18 specialized training?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And do DPS employees -- including</p> <p>21 customer service representatives, do they receive</p> <p>22 customer service training or specific instruction on</p> <p>23 how to interact with the public?</p> <p>24 A. Yes.</p> <p>25 Q. And what does that training consist of?</p>

JOE PETERS

4/30/2014

62 (Pages 245 to 248)

<p style="text-align: right;">245</p> <p>1 A. I don't know.</p> <p>2 Q. You don't know?</p> <p>3 A. I haven't gone through the training.</p> <p>4 Q. Do you know who might know that?</p> <p>5 A. Any of the training division would know.</p> <p>6 Q. Is there a head of the training division?</p> <p>7 A. Yeah. It -- the -- JoAnna Straphio (phonetic)</p> <p>8 is the deputy assistant director for training.</p> <p>9 Q. Uh-huh.</p> <p>10 A. Lynn Hale is one of the trainers here in</p> <p>11 Austin that trains the trainers.</p> <p>12 Q. Okay. So with regards to the customer service</p> <p>13 representatives, does DPS require them to have attained</p> <p>14 a certain level of education in order to be employed?</p> <p>15 A. No.</p> <p>16 Q. How many of the customer service</p> <p>17 representatives are fluent in Spanish?</p> <p>18 A. I don't know that.</p> <p>19 Q. Is there a requirement that offices have a</p> <p>20 minimum number of Spanish speakers?</p> <p>21 A. No.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit No. 51 marked.)</p> <p>24 Q. (BY MS. CLARK) So you can you tell me on what</p> <p>25 date DPS began issuing EICs?</p>	<p style="text-align: right;">247</p> <p>1 A. The driver license employees, the customer</p> <p>2 service representatives.</p> <p>3 Q. And they were trained in 2012?</p> <p>4 A. They were trained in 2011, initially.</p> <p>5 Q. And were they trained again in 2012?</p> <p>6 A. They received -- some of them received</p> <p>7 refresher training in 2012 or '13. 2013, I believe.</p> <p>8 Q. So is this e-mail talking about the 2013</p> <p>9 refresher training to which you're referring?</p> <p>10 A. Uh-huh.</p> <p>11 Q. Okay.</p> <p>12 MR. KEISTER: You have to say yes.</p> <p>13 THE WITNESS: I'm sorry. Yes. Sorry.</p> <p>14 Q. (BY MS. CLARK) So do you know which employees</p> <p>15 in particular were required to attend this WebEx</p> <p>16 refresher training?</p> <p>17 A. No.</p> <p>18 Q. You don't.</p> <p>19 Do you -- was there a record that was</p> <p>20 kept of which employees attended the training?</p> <p>21 A. Yes.</p> <p>22 Q. So would that be -- what form does that record</p> <p>23 take?</p> <p>24 A. If -- on the webinar, the WebEx webinar, I'm</p> <p>25 not sure how that was tracked. The other training,</p>
<p style="text-align: right;">246</p> <p>1 A. June 26th, 2013.</p> <p>2 Q. Okay. And this document that's just been</p> <p>3 marked as an exhibit, this is an e-mail dated</p> <p>4 June 21st, 2013, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And although it doesn't have a subject, it</p> <p>7 attaches something that's called 32 Job Aid Election</p> <p>8 Certificate, and 32 Tax Election Certificate, correct?</p> <p>9 A. Uh-huh.</p> <p>10 THE REPORTER: Yes?</p> <p>11 THE WITNESS: Yes.</p> <p>12 Q. (BY MS. CLARK) If I can draw your attention</p> <p>13 to the e-mail at the top of the page. On the second</p> <p>14 line where it says, "because of this possibility, we</p> <p>15 are holding a WebEx refresher training at 4:00 p.m.</p> <p>16 today."</p> <p>17 Was WebEx refresher training held in</p> <p>18 anticipation of EICs being issued?</p> <p>19 A. That's my understanding.</p> <p>20 Q. Okay. Do you know whether all EIC employees</p> <p>21 were trained on -- I mean, whether all DPS employees</p> <p>22 were trained on the issuance of EICs prior to 2013?</p> <p>23 A. All DPS employees were not trained.</p> <p>24 Q. Do you know whether all -- which DPS employees</p> <p>25 would have been trained?</p>	<p style="text-align: right;">248</p> <p>1 there's a sign-in sheet where everyone comes in and</p> <p>2 places their signature on a spreadsheet that certifies</p> <p>3 that they were there for that training.</p> <p>4 Q. What is the "other training"?</p> <p>5 A. What do you mean "other training"?</p> <p>6 Q. You just said that you know for the other</p> <p>7 training?</p> <p>8 A. For in-person training.</p> <p>9 Q. I see.</p> <p>10 A. If they came in to -- to greet and to meet</p> <p>11 with a facilitator and they had one-on-one or</p> <p>12 one-on-many rather than a webinar, that's the other</p> <p>13 training I was referring to.</p> <p>14 Q. So was the 2011 original training an in-person</p> <p>15 training?</p> <p>16 A. I believe it was.</p> <p>17 Q. And so there would be a document that was --</p> <p>18 that would be something like a sign-in sheet that would</p> <p>19 reflect who had attended that training?</p> <p>20 A. There should be, yes, ma'am.</p> <p>21 Q. Do you know whether that document was produced</p> <p>22 as part of this litigation?</p> <p>23 A. I don't know.</p> <p>24 MS. CLARK: Do you know whether that</p> <p>25 happened?</p>

JOE PETERS

4/30/2014

63 (Pages 249 to 252)

<p style="text-align: right;">249</p> <p>1 MR. KEISTER: I don't know, Counsel. I</p> <p>2 don't know one way or the other.</p> <p>3 MS. CLARK: Thank you.</p> <p>4 Q. (BY MS. CLARK) So if an employee is required</p> <p>5 to attend a training and is unable to or misses it,</p> <p>6 what are the consequences of that?</p> <p>7 A. They are given an opportunity at another time.</p> <p>8 Q. To take the training?</p> <p>9 A. To take the training.</p> <p>10 Q. Okay. And if an employee simply does not take</p> <p>11 the training at any point, what are the consequences of</p> <p>12 that?</p> <p>13 A. Then they don't issue EICs or they don't issue</p> <p>14 DLs or they don't issue ID cards.</p> <p>15 Q. Okay. Can you please turn to the third page</p> <p>16 of this document, which has the title, "Election</p> <p>17 Certificate Issuance Procedures"?</p> <p>18 A. Yes.</p> <p>19 Q. Can you tell me whether this was part of the</p> <p>20 WebEx training that the employees received?</p> <p>21 A. I can't tell you.</p> <p>22 Q. Do you know who would be able to verify that</p> <p>23 for me?</p> <p>24 A. The training folks.</p> <p>25 Q. Okay. Can you turn -- it's about -- perhaps</p>	<p style="text-align: right;">251</p> <p>1 marked is an e-mail from June 24th, 2013 that has a</p> <p>2 subject line, "Election Certificate Refresher,"</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And this e-mail references a WebEx training</p> <p>6 for all facilitators and -- is that right? In the</p> <p>7 third line -- sorry -- of the mail.</p> <p>8 A. Yes.</p> <p>9 Q. So you -- you just mentioned earlier that</p> <p>10 facilitators are the individuals responsible for giving</p> <p>11 trainings?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So if you can turn to the next page of</p> <p>14 this document entitled, "Eligibility Requirements for</p> <p>15 Issuance of Texas Election Certificate."</p> <p>16 Is this part of the packet that you were</p> <p>17 referencing?</p> <p>18 A. It does look familiar, yes.</p> <p>19 Q. Okay. If you want to take a moment to flip</p> <p>20 through it, you can let me know if this -- if this</p> <p>21 looks like something that's part of the training</p> <p>22 document that you reviewed.</p> <p>23 A. (Witness complies with request.)</p> <p>24 Okay.</p> <p>25 Q. Okay. So does this look like some of the</p>
<p style="text-align: right;">250</p> <p>1 ten pages in, to a document which has a label on the</p> <p>2 bottom-right corner that says, "T-E-X 478177? Yes.</p> <p>3 And this is entitled, "Texas Election</p> <p>4 Certificate," correct?</p> <p>5 A. Yes.</p> <p>6 Q. And is this also part of the WebEx training?</p> <p>7 A. I don't know.</p> <p>8 Q. You don't know. Okay.</p> <p>9 So what documents did you review in</p> <p>10 preparation for discussing training?</p> <p>11 A. The training packets for DPS employees, the</p> <p>12 CSRs and the training packets for the Secretary of</p> <p>13 State's office staff and the training packets for</p> <p>14 county employees.</p> <p>15 Q. So this would not be considered a training</p> <p>16 packet for a CSR?</p> <p>17 A. Well, no. The training packet for a CSR is</p> <p>18 much more extensive than this.</p> <p>19 Q. Okay. Can you give me any information about</p> <p>20 what that looks like and what the title is?</p> <p>21 A. I don't recall.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit No. 52 marked.)</p> <p>24 MR. KEISTER: Thank you.</p> <p>25 Q. (BY MS. CLARK) So the document that was just</p>	<p style="text-align: right;">252</p> <p>1 training documents that you reviewed in preparation for</p> <p>2 your testimony today?</p> <p>3 A. It does.</p> <p>4 Q. Okay. So if I can draw your attention to the</p> <p>5 line that says, "Who is not eligible to apply for a</p> <p>6 Texas Election Certificate?"</p> <p>7 A. Uh-huh.</p> <p>8 Q. And then first bullet -- the first sub-bullet</p> <p>9 point says that those individuals who have a Texas</p> <p>10 driver's license that is unexpired or expired less than</p> <p>11 60 days are ineligible to apply; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. So DPS employees were trained not to issue</p> <p>14 EICs to individuals whose licenses were expired less</p> <p>15 than -- fewer than 60 days at the time they were in the</p> <p>16 office; is that correct?</p> <p>17 A. Less than 60 days.</p> <p>18 Q. Yes?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And if you go to the bottom of --</p> <p>21 towards the bottom of Page 1 under the heading, "How</p> <p>22 Does a Person Apply For a Texas Election Certificate?"</p> <p>23 A. Okay.</p> <p>24 Q. The third bullet point down, "Bring documents</p> <p>25 that meet the department's identification policy."</p>

JOE PETERS

4/30/2014

64 (Pages 253 to 256)

<p style="text-align: right;">253</p> <p>1 What are the -- is there a list of</p> <p>2 documents that meet the department's identification</p> <p>3 policy on which employees are trained?</p> <p>4 A. Yes.</p> <p>5 Q. Is that part of the training that employees</p> <p>6 received for issuing EICs?</p> <p>7 A. Yes. And I can't tell you where it is, but it</p> <p>8 was in the packet -- the packet that I reviewed was an</p> <p>9 inch thick.</p> <p>10 Q. Uh-huh.</p> <p>11 A. So either the fonts are smaller here or</p> <p>12 there's a lot more information than what I reviewed.</p> <p>13 Q. Okay. So is there a different list for which</p> <p>14 identification documents are accepted when applying for</p> <p>15 an EIC and which are accepted when applying for a</p> <p>16 driver's license?</p> <p>17 A. The question again, please?</p> <p>18 Q. Are there two -- is the list of acceptable</p> <p>19 documents when applying for a driver's license the same</p> <p>20 as the list of acceptable documents as when applying</p> <p>21 for an EIC?</p> <p>22 A. I believe the only difference would be lawful</p> <p>23 presence of citizenship. I'm not sure.</p> <p>24 Q. You're not sure?</p> <p>25 A. No.</p>	<p style="text-align: right;">255</p> <p>1 Q. Okay. So if the training was in June of 2013</p> <p>2 and the policy changed in September of 2013, at what</p> <p>3 point were employees retrained on the new procedures?</p> <p>4 A. If I remember correctly, there was no formal</p> <p>5 training that we would not collect fingerprints or</p> <p>6 thumb prints. It was memos from the senior management</p> <p>7 to each of the regional office and then passed to the</p> <p>8 facilitators and to staff, the CSRs.</p> <p>9 Q. So who was responsible, ultimately, for</p> <p>10 getting the change in policy to the CSRs?</p> <p>11 A. The regional managers, as it came from</p> <p>12 headquarters through our senior managers.</p> <p>13 Q. Okay. So can you be assured that that policy</p> <p>14 was communicated to all CSRs?</p> <p>15 A. I was. I mean, I didn't see it happen; but</p> <p>16 that's what the senior managers were instructed to do.</p> <p>17 Q. But there was no retraining at that point?</p> <p>18 A. No formal retraining at that point that I'm</p> <p>19 aware of.</p> <p>20 Q. Okay. If you could go to Page 4. And towards</p> <p>21 the top of the page where "prior to issuance of an</p> <p>22 election certificate," under No. 1, towards the bottom.</p> <p>23 It says, "Do not issue an election certificate if a</p> <p>24 matching record is found under the following</p> <p>25 circumstances: DLS indicates the person is ineligible,</p>
<p style="text-align: right;">254</p> <p>1 Q. So -- but were employees trained on whether</p> <p>2 there are any difference in the identification</p> <p>3 documents accepted for EICs as opposed to driver's</p> <p>4 licenses?</p> <p>5 A. I don't know. I wasn't there doing the</p> <p>6 training.</p> <p>7 Q. Okay. So on the -- if you can turn to the top</p> <p>8 of Page 3 where it says that the procedures for issuing</p> <p>9 an election certificate are very similar to those used</p> <p>10 to issue a driver's license or identification card.</p> <p>11 A. Similar.</p> <p>12 Q. Yes. And then it says, "Similarities</p> <p>13 include." And if you go down to the third bullet</p> <p>14 point, it says, "Collecting images, photos, thumb</p> <p>15 prints, and signature," correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So at the time of this training, which</p> <p>18 took place on June 24th, 2013, the policy of DPS was to</p> <p>19 collect thumb prints when applying for EICs, correct?</p> <p>20 A. Correct.</p> <p>21 Q. At what point did that policy -- did that</p> <p>22 policy change?</p> <p>23 A. The policy itself? Well, yes. I can say that</p> <p>24 it changed, and that was in probably the end of</p> <p>25 September of '13.</p>	<p style="text-align: right;">256</p> <p>1 i.e., suspended, revoked, cancelled, or denied, if the</p> <p>2 person maintains the card in their possession."</p> <p>3 Can you explain what that means?</p> <p>4 A. What that means is if the person still has</p> <p>5 their ID or their driver's license in their possession,</p> <p>6 even though it's revoked, they can still use it for</p> <p>7 identification purposes. But their driving privileges</p> <p>8 are revoked, and they can't use it to drive.</p> <p>9 Q. So when you say they could still use it for</p> <p>10 identification purposes, they could still use it to</p> <p>11 vote?</p> <p>12 A. Yes.</p> <p>13 Q. So they would be ineligible to receive an</p> <p>14 election certificate if they had a suspended license?</p> <p>15 A. If they had a suspended license. If they</p> <p>16 wanted the EIC, they could sign an affidavit</p> <p>17 surrendering their license; and then we could issue</p> <p>18 them an EIC.</p> <p>19 Q. So in order to get an EIC, somebody with a</p> <p>20 suspended license would have to physically return their</p> <p>21 license to you?</p> <p>22 A. No.</p> <p>23 Q. No. What does "surrender" mean?</p> <p>24 A. If they lost the driver's license or if it</p> <p>25 was -- well, surrender means they would give it up.</p>

JOE PETERS

4/30/2014

65 (Pages 257 to 260)

<p style="text-align: right;">257</p> <p>1 And if they don't have the card, we can't ask them to 2 produce something they don't have. But they signed the 3 affidavit surrendering their driving privilege, and we 4 take their driving privileges out of the database. 5 Q. So if someone has a suspended license in their 6 possession, are they eligible to receive an EIC? 7 A. No. If it meets this criteria. 8 Q. What is -- 9 A. If there -- 10 Q. What are the additional criteria? 11 A. I'm sorry. If it's not expired more than 60 12 days. 13 Q. So if someone has an unexpired, suspended 14 license -- 15 A. Uh-huh. 16 Q. -- they are ineligible to receive an EIC? 17 A. If they still have the card. 18 Q. Okay. If someone has an unexpired, revoked 19 license, are they ineligible to receive an EIC? 20 A. If they -- if it -- no. They can -- they 21 cannot get an EIC if the license is valid other than 22 that it's suspended or revoked. 23 Q. Okay. So what were DPS employees trained to 24 do if somebody came to them and said that they had lost 25 their license?</p>	<p style="text-align: right;">259</p> <p>1 Q. Okay. Can you go to item No. 4, please? It 2 reads, "What if the person tells you they do not have 3 money to pay for replacement identification card or 4 driver's license?" 5 Does an individual need to inform the CSR 6 that they don't have money in order to be eligible for 7 an EIC? 8 A. They could tell the CSR that they don't have 9 money for the renewal or a duplicate. And then if they 10 signed the affidavit surrendering their driver's 11 license driving privileges, then they could be issued 12 an EIC. 13 Q. So who determines whether the individual has 14 enough money to pay? 15 A. The individual. 16 Q. The individual. 17 So there's no discretion given to CSRs at 18 that stage? 19 A. No. 20 Q. What if someone -- what are DPS employees 21 trained to do if someone has sufficient money to pay 22 for a replacement card but not enough money to pay for 23 the supporting documentation required to get an ID? 24 A. If they don't come in with the supporting 25 documentation, then they won't be issued.</p>
<p style="text-align: right;">258</p> <p>1 A. If they came to DPS and said they lost their 2 license, they would be given an opportunity to apply 3 for a duplicate. 4 Q. Okay. So in the middle of the same page where 5 we are now, "Questions, answers regarding election 6 certificate." Question No. 2. 7 Can you explain what the line means where 8 it says, "Remember the person must request the photo ID 9 for voting purposes"? 10 A. Just what it says. 11 Q. So someone who -- would have to request an EIC 12 specifically to receive one? 13 A. Yes. 14 Q. Okay. Would they have to say that they were 15 seeking the card for voting purposes? 16 A. We would have to know what they're in there 17 for. And if they -- if they indicate that they just 18 want to vote, they don't need to do anything else, 19 they're not going to drive, they don't need an 20 identification card, then they would be offered an EIC, 21 if they indicated that they wanted to use an ID to 22 vote. 23 Q. If they indicated to you they wanted to use an 24 ID to vote, they would be offered an EIC? 25 A. Yes.</p>	<p style="text-align: right;">260</p> <p>1 Q. Okay. So in order to get an EIC, someone only 2 needs to affirm that they do not have enough money to 3 pay for the identification card. 4 A. No. They have to surrender their driver's 5 license or ID card. 6 Q. So if someone had an expired driver's license 7 and they -- that was no longer eligible for voting 8 purposes because it was expired for too long of a time 9 and they wanted -- they no longer had the money to 10 renew that driver's license, would they be able to get 11 an EIC? 12 A. I would think that they would have to still be 13 required to sign the affidavit surrendering their 14 license. 15 Q. So -- just so I understand the difference 16 between the affidavit surrendering and actually giving 17 the license back, are they returning the license to you 18 at that point? 19 A. If they have it. 20 Q. If they have it, they're returning it? 21 A. Yeah. Uh-huh. 22 Q. Okay. So is the EIC valid for anything other 23 than voting purposes? 24 A. No. Well, as far as DPS is concerned, we 25 don't control what anyone else might do with it and</p>

JOE PETERS

4/30/2014

66 (Pages 261 to 264)

<p style="text-align: right;">261</p> <p>1 what they might accept it for.</p> <p>2 Q. So if someone wanted to hold on to their</p> <p>3 expired driver license for some other reason but also</p> <p>4 wanted an EIC because they needed it to vote, would</p> <p>5 they be able to hold on to their driver license?</p> <p>6 A. I think they would.</p> <p>7 Q. So it isn't -- what you testified before was</p> <p>8 not correct, that they would have to surrender it?</p> <p>9 A. If -- if they're going to surrender their</p> <p>10 driving privileges and the card is not expired, then</p> <p>11 they would have to surrender it.</p> <p>12 Q. I'm sorry. The card is expired because it's</p> <p>13 no longer valid. The card is expired.</p> <p>14 A. Uh-huh.</p> <p>15 Q. They do not have the money to renew the card</p> <p>16 but they want to hold on to it because they use it for</p> <p>17 ID and other parts of their life, but it's no longer --</p> <p>18 A. Even if it's expired?</p> <p>19 Q. Yes.</p> <p>20 A. Okay.</p> <p>21 Q. But it's no longer valid for voting under</p> <p>22 Texas' photo ID law, would they be allowed to get an</p> <p>23 EIC without returning their license to you?</p> <p>24 A. I don't know the answer to that question.</p> <p>25 Q. Do you know who would know the answer to that?</p>	<p style="text-align: right;">263</p> <p>1 Q. Is there anything in this training that says</p> <p>2 that that would be considered on an individual basis?</p> <p>3 A. No.</p> <p>4 Q. So how would individual employees have that</p> <p>5 information?</p> <p>6 A. That's -- when they get the request, the</p> <p>7 regional manager or the office manager makes that</p> <p>8 decision.</p> <p>9 Q. How would they know to elevate it?</p> <p>10 A. How would who know to elevate?</p> <p>11 Q. How would a CSR know if the stated policy is</p> <p>12 that EICs are not issued to home-bound applicants?</p> <p>13 A. The CSR doesn't make the decision on a</p> <p>14 home-bound visit. Supervisors make those decisions and</p> <p>15 then make the assignment.</p> <p>16 Q. Okay. If you could turn to the -- or go to</p> <p>17 the bottom of this page. Question No. 13, "Will</p> <p>18 renewal notices for an election certificate be sent to</p> <p>19 card holders?"</p> <p>20 And is it DPS' policy that renewal</p> <p>21 notices for an election certificate are not sent to EIC</p> <p>22 holders?</p> <p>23 A. I don't know the answer to the question. We</p> <p>24 haven't -- we're not that far along in the process. I</p> <p>25 know what -- what the training document says.</p>
<p style="text-align: right;">262</p> <p>1 A. Probably license of record service that does</p> <p>2 the quality assurance would be the best people.</p> <p>3 Q. Is there someone in particular there?</p> <p>4 A. Morgan Spinx.</p> <p>5 Q. To your knowledge, is there any statutory</p> <p>6 reason for this policy about surrendering your driver's</p> <p>7 license when you're getting an EIC?</p> <p>8 A. I'm not aware of it.</p> <p>9 Q. And are there regulations that require DPS to</p> <p>10 do that?</p> <p>11 A. I believe there are. I don't know what they</p> <p>12 are specifically.</p> <p>13 Q. Okay. So if you could turn to the next page,</p> <p>14 Page 5, item No. 6 at the top. That reads, "Will we</p> <p>15 issue election certificates to home-bound applicants?"</p> <p>16 A. Uh-huh.</p> <p>17 Q. The answer to that is no. Is that -- so DPS</p> <p>18 employees are trained not to issue EICs to home-bound</p> <p>19 applicants; is that correct?</p> <p>20 A. That's correct under these circumstances.</p> <p>21 Q. What are the particular circumstances?</p> <p>22 A. If a person is home bound, they could be</p> <p>23 voting by mail; and an EIC would not be required. If</p> <p>24 they insist on a voter ID, then we will consider their</p> <p>25 case on an individual basis and do a home-bound visit.</p>	<p style="text-align: right;">264</p> <p>1 Q. Is there anything that says something</p> <p>2 different from this training document?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Are renewal notices sent to individuals with</p> <p>5 driver licenses?</p> <p>6 A. Yes.</p> <p>7 Q. Are renewal notices sent to individuals with</p> <p>8 photo identification?</p> <p>9 A. I believe they are.</p> <p>10 Q. What is the reason for the difference in</p> <p>11 policy?</p> <p>12 A. I don't know.</p> <p>13 Q. Is there a reason?</p> <p>14 A. I don't know.</p> <p>15 Q. Would you agree that this makes it more</p> <p>16 difficult for someone with an EIC to renew than someone</p> <p>17 with a driver license because they are not informed of</p> <p>18 its expiration?</p> <p>19 A. I don't know why it would make it more</p> <p>20 difficult. The requirements for renewal would be the</p> <p>21 same whether they get notified or not.</p> <p>22 Q. So why are individuals with driver licenses</p> <p>23 notified, because it's a convenience to them?</p> <p>24 A. Well, yeah.</p> <p>25 Q. Okay. Can you turn to Page 7, please? This</p>

JOE PETERS

4/30/2014

67 (Pages 265 to 268)

<p style="text-align: right;">265</p> <p>1 is a signature page.</p> <p>2 Did this -- was this page signed by</p> <p>3 everybody who took this training?</p> <p>4 A. It's my understanding that it was. I have not</p> <p>5 seen them independently.</p> <p>6 Q. Do you know if they're logged and recorded?</p> <p>7 A. They're in the employee's -- excuse me --</p> <p>8 their personnel folder if I remember right.</p> <p>9 Q. Okay. And if an employee failed to sign this</p> <p>10 document, who would be aware of that?</p> <p>11 A. Their supervisor.</p> <p>12 Q. And what would be the consequences of that?</p> <p>13 A. If -- if -- are you saying they took the</p> <p>14 training but then refused to signed the document?</p> <p>15 Q. Is this the only evidence that somebody took</p> <p>16 the training?</p> <p>17 A. No.</p> <p>18 Q. What is the -- what are the other pieces of</p> <p>19 evidence?</p> <p>20 A. The sign-in sheet.</p> <p>21 Q. So I believe that this is a WebEx training,</p> <p>22 and you said that there were not -- is that correct?</p> <p>23 A. There was WebEx training conducted here.</p> <p>24 Q. Okay. So you're saying that for this</p> <p>25 particular training that we just looked through, there</p>	<p style="text-align: right;">267</p> <p>1 reviewed, called "Election Certificate Issuance</p> <p>2 Procedures.</p> <p>3 Is this also part of the training that</p> <p>4 employees received in June of 2013?</p> <p>5 A. I believe it was.</p> <p>6 Q. So in addition to these two documents, you</p> <p>7 have referenced a larger training that you saw in</p> <p>8 preparation for this deposition?</p> <p>9 A. Larger packet.</p> <p>10 Q. A larger packet.</p> <p>11 A. Uh-huh.</p> <p>12 Q. But you don't recall the name of that packet?</p> <p>13 A. No, I don't.</p> <p>14 Q. Okay. Are there any other documents, other</p> <p>15 than the two we just looked at and the packet that</p> <p>16 you're referencing, that were used for employee</p> <p>17 training in 2013?</p> <p>18 A. I'm not aware of any.</p> <p>19 Q. Do you know whether -- have DPS employees been</p> <p>20 trained in 2014 on EIC issuance?</p> <p>21 A. There have been some that are being trained.</p> <p>22 Q. Are -- is this a refresher training?</p> <p>23 A. Well, we had facilitator training that we just</p> <p>24 completed week before last; and EIC was part of that</p> <p>25 facilitator training.</p>
<p style="text-align: right;">266</p> <p>1 is a sign-in sheet?</p> <p>2 A. For -- if this is in-person training, yes.</p> <p>3 Q. Okay.</p> <p>4 A. If they do the WebEx then they still sign this</p> <p>5 sheet, and it's maintained by the region.</p> <p>6 Q. So between the time that -- that employees are</p> <p>7 required to take this training, were employees allowed</p> <p>8 to work a shift after the time at which DPS was issuing</p> <p>9 EICs but prior to taking this training?</p> <p>10 A. You're going to have to say that one again.</p> <p>11 Q. So were any CSRs -- who are the employees</p> <p>12 responsible for issuing EICs, correct?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Were any CSRs allowed to work a shift after</p> <p>15 the time at which Texas began issuing the EICs but</p> <p>16 prior to taking this training?</p> <p>17 A. I don't know the answer to that question.</p> <p>18 Q. So was that something that -- was that</p> <p>19 something that was policed at the local DPS office</p> <p>20 level?</p> <p>21 A. Well, the -- if it was done by the webinar, it</p> <p>22 was -- it was processed or initiated by the</p> <p>23 headquarters training staff.</p> <p>24 Q. Okay. Can you turn two pages please, and look</p> <p>25 at the second portion, which I think you already</p>	<p style="text-align: right;">268</p> <p>1 Q. Have those -- has the training changed since</p> <p>2 the training that we just looked through?</p> <p>3 A. I'm not sure if it has changed, what has been</p> <p>4 changed -- or what was changed.</p> <p>5 Q. Okay. At any point in 2013 or 2014, did</p> <p>6 anyone other than DPS employees participate in the</p> <p>7 issuance of EICs?</p> <p>8 A. In 2013 or 2014 did any other? Yes.</p> <p>9 Q. Who?</p> <p>10 A. Secretary of State staff.</p> <p>11 Q. Okay.</p> <p>12 (Exhibit No. 53 marked.)</p> <p>13 Q. (BY MS. CLARK) So this is an e-mail sent on</p> <p>14 your behalf, correct?</p> <p>15 A. Uh-huh.</p> <p>16 Q. On October 3, 2013. And can you tell me what</p> <p>17 this e-mail was about?</p> <p>18 A. This appears to be the e-mail that we sent out</p> <p>19 to the counties with respect to having the counties'</p> <p>20 employees, et cetera, trained for EIC issuance.</p> <p>21 Q. So prior to this -- receipt of this e-mail,</p> <p>22 did county officials know that they were going to be</p> <p>23 involved in EIC issuance?</p> <p>24 A. I can't answer the question. I don't know how</p> <p>25 many of them did and how many of them didn't. But we</p>

JOE PETERS

4/30/2014

68 (Pages 269 to 272)

<p style="text-align: right;">269</p> <p>1 had made numerous contacts with the counties and had</p> <p>2 some idea who had indicated an interest at that point</p> <p>3 in participating.</p> <p>4 Q. So on the letter that you attached to this</p> <p>5 e-mail in the second half of the page, it outlines DPS</p> <p>6 responsibilities and county responsibilities, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you believe this is an accurate</p> <p>9 representation of the division of responsibilities</p> <p>10 between DPS and the county?</p> <p>11 A. Yes, I do.</p> <p>12 Q. So was either DPS or the county responsible</p> <p>13 for publicizing the times and locations of the mobile</p> <p>14 units?</p> <p>15 A. Yes.</p> <p>16 Q. Who was responsible?</p> <p>17 A. DPS.</p> <p>18 Q. Does that appear in the DPS responsibilities?</p> <p>19 A. I don't recall that it's in this particular</p> <p>20 document.</p> <p>21 Q. But it's your testimony that DPS was</p> <p>22 responsible for publicizing the times and locations of</p> <p>23 the mobile EIC units?</p> <p>24 A. Yes, except for those counties that were doing</p> <p>25 it five days a week.</p>	<p style="text-align: right;">271</p> <p>1 equipment. That was -- that was the only practical</p> <p>2 test.</p> <p>3 Q. Was part of the training whether or -- was</p> <p>4 part of the training whether or not individuals were --</p> <p>5 met the eligibility criteria for receiving an EIC or --</p> <p>6 yeah.</p> <p>7 A. I'm not sure I understand your question.</p> <p>8 Q. You mentioned tests on practical factors such</p> <p>9 as setting up the technology, correct?</p> <p>10 A. Uh-huh. Uh-huh.</p> <p>11 Q. Were county officials also tested on whether</p> <p>12 or not they understood the EIC eligibility criteria?</p> <p>13 A. I don't know.</p> <p>14 Q. Were county officials ever issuing EICS in the</p> <p>15 absence of DPS employees?</p> <p>16 A. They could.</p> <p>17 Q. But you don't know whether they were actually</p> <p>18 trained on who could get an EIC?</p> <p>19 A. Oh, yes. But I thought your question was:</p> <p>20 Did county officials ever issue an EIC?</p> <p>21 Q. No, I'm sorry. If that's what I said, I</p> <p>22 misspoke.</p> <p>23 I was asking whether county officials</p> <p>24 were trained on the eligibility criteria for EICs.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">270</p> <p>1 Q. So what form did that publication take?</p> <p>2 A. I don't remember.</p> <p>3 Q. You don't know how DPS informed --</p> <p>4 A. Oh, how?</p> <p>5 Q. -- the public?</p> <p>6 A. Oh, yes. Press releases, social media feeds.</p> <p>7 Q. Anything else?</p> <p>8 A. I'm not aware of them.</p> <p>9 Q. Okay. If you can look under "DPS</p> <p>10 Responsibilities," the fourth bullet point is -- reads,</p> <p>11 "Upon successful completion of a six-hour training</p> <p>12 course, DPS will issue mobile EIC station equipment to</p> <p>13 county personnel for return to their respective</p> <p>14 counties."</p> <p>15 What was successful completion of the</p> <p>16 course? What did that constitute?</p> <p>17 A. That constituted them completing this six-hour</p> <p>18 training course.</p> <p>19 Q. So successful completion just means sitting</p> <p>20 through the course?</p> <p>21 A. Yes.</p> <p>22 Q. Did they have to take a test at any point to</p> <p>23 demonstrate knowledge of the material?</p> <p>24 A. They demonstrated the fact that they knew how</p> <p>25 to set the equipment up and how to operate the</p>	<p style="text-align: right;">272</p> <p>1 Q. Were they ever tested to make sure that they</p> <p>2 understood the eligibility criteria?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Before we leave this document, if you could</p> <p>5 flip to Page 2. It's actually Page 5 of the document,</p> <p>6 but it has Page 2 at the bottom.</p> <p>7 Is this an accurate list of all the</p> <p>8 training locations and dates for county officials who</p> <p>9 were issuing EICs in 2013?</p> <p>10 A. I have no reason to believe that it's not.</p> <p>11 Q. Are any such trainings scheduled for 2014?</p> <p>12 A. Not that I'm aware of.</p> <p>13 Q. Have there already been any trainings for</p> <p>14 county officials?</p> <p>15 A. Yes, there have. Yes, there have.</p> <p>16 Q. When did those take place?</p> <p>17 A. I don't recall the dates.</p> <p>18 Q. Do you have a document that would give us that</p> <p>19 information?</p> <p>20 A. There are documents that would -- that</p> <p>21 would -- that would document the training and where it</p> <p>22 was conducted and by whom.</p> <p>23 Q. Do you know whether those document were turned</p> <p>24 over?</p> <p>25 A. No, I don't.</p>

JOE PETERS

4/30/2014

69 (Pages 273 to 276)

<p style="text-align: right;">273</p> <p>1 Q. Okay.</p> <p>2 (Exhibit No. 54 marked.)</p> <p>3 Q. (BY MS. CLARK) So this document is entitled,</p> <p>4 "County Election Certificate Training Plan." And it's</p> <p>5 dated October 2nd, 2013, correct?</p> <p>6 A. Correct.</p> <p>7 Q. So who was trained using this document?</p> <p>8 A. These were county employees.</p> <p>9 Q. County employees who would be issuing EICs?</p> <p>10 A. Correct.</p> <p>11 Q. So if you could turn to Page 4 of this</p> <p>12 Document, 3.2, "Evaluation."</p> <p>13 Do you know whether course evaluations</p> <p>14 were used to measure the effectiveness of training?</p> <p>15 A. They were in part of one of the trainings that</p> <p>16 I attended.</p> <p>17 Q. Do you know if -- has DPS retained those</p> <p>18 course evaluations?</p> <p>19 A. They have.</p> <p>20 Q. Do you know whether those course evaluations</p> <p>21 have been produced?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know whether DPS updated or improved</p> <p>24 future training based on the responses from course</p> <p>25 evaluations?</p>	<p style="text-align: right;">275</p> <p>1 understanding is that the training for the county</p> <p>2 employees and that for the Secretary of State's office</p> <p>3 employees were basically the same. And the only</p> <p>4 difference in the -- in the documents -- the training</p> <p>5 plans was the cover page and titles at the top of the</p> <p>6 pages.</p> <p>7 Q. So --</p> <p>8 A. An the appendix, if there was one.</p> <p>9 Q. So this document, which here is titled,</p> <p>10 "County Election Certificate Training Plan," would have</p> <p>11 also been used for training Secretary of State's</p> <p>12 employees; but it would have been modified to say</p> <p>13 Secretary of State employees?</p> <p>14 A. That's my understanding.</p> <p>15 Q. Okay. And do you know whether there were any</p> <p>16 additional materials that were used for training?</p> <p>17 A. Additional materials such as?</p> <p>18 Q. Well, in addition to what we just looked at.</p> <p>19 A. Not that I'm aware of.</p> <p>20 (Exhibit No. 55 marked.)</p> <p>21 Q. (BY MS. CLARK) So this document is entitled,</p> <p>22 "Texas Election Identification Certificate County Clerk</p> <p>23 Mobile Light Training," correct?</p> <p>24 A. Yes.</p> <p>25 Q. And do you agree that it appears to be a</p>
<p style="text-align: right;">274</p> <p>1 A. The whole EIC process is constantly being</p> <p>2 update and improved.</p> <p>3 Q. Can you identify some improvements that have</p> <p>4 been made?</p> <p>5 A. No.</p> <p>6 Q. Can you identify some updates that have been</p> <p>7 made?</p> <p>8 A. No.</p> <p>9 Q. So who were the instructors at these county</p> <p>10 training sessions?</p> <p>11 A. I don't know who they were for each individual</p> <p>12 training session. But generally Bob Myers and Lynn</p> <p>13 Hale were responsible for either doing the training</p> <p>14 themselves or identifying the appropriate facilitator.</p> <p>15 Q. On the last two pages of this document is --</p> <p>16 are pages called, "EIC Training Outline."</p> <p>17 A. Uh-huh.</p> <p>18 Q. You mentioned that you attended one of these</p> <p>19 trainings?</p> <p>20 A. I attended part of one of the trainings for</p> <p>21 the Secretary of State's office.</p> <p>22 Q. Was this timeline followed during the</p> <p>23 training?</p> <p>24 A. Pretty much. As it relates to the Secretary</p> <p>25 of State's office training, yes, it would. And my</p>	<p style="text-align: right;">276</p> <p>1 printout of a PowerPoint or some kind of presentation?</p> <p>2 A. Yes.</p> <p>3 Q. When you attended the training, was this used?</p> <p>4 A. I don't remember this being used.</p> <p>5 Q. Was this generally used to train county</p> <p>6 officials who would be issuing EICs?</p> <p>7 A. I don't know.</p> <p>8 Q. Have you ever seen this document before?</p> <p>9 A. I don't recall that I have. You know, the --</p> <p>10 the thing that sticks out at me is the County Clerk</p> <p>11 Mobile Light Training. I don't recall having seen that</p> <p>12 on a document.</p> <p>13 Q. You don't know what "mobile light" means?</p> <p>14 A. No.</p> <p>15 Q. All right. I have one more county training</p> <p>16 document that I would like you to take a look at.</p> <p>17 (Exhibit No. 56 marked.)</p> <p>18 Q. (BY MS. CLARK) So this is a manual entitled,</p> <p>19 "Election Identification Certificate County Set Up and</p> <p>20 Issuance Training," correct?</p> <p>21 A. Correct.</p> <p>22 Q. Dated October 11th, 2013.</p> <p>23 A. Uh-huh.</p> <p>24 Q. Was this manual distributed to county</p> <p>25 officials attending EIC training?</p>

JOE PETERS

4/30/2014

70 (Pages 277 to 280)

<p style="text-align: right;">277</p> <p>1 A. I don't know.</p> <p>2 Q. Do you know what -- were county officials</p> <p>3 required by DPS to read the manual as part of the</p> <p>4 training?</p> <p>5 A. I don't know that either.</p> <p>6 Q. So you mentioned before an appendix to</p> <p>7 documents. If you could turn to what is Appendix G.</p> <p>8 A. "G" as in George?</p> <p>9 Q. "G" as in George," which is located at Page</p> <p>10 TexIR 303. So this appendix outlines the primary</p> <p>11 identification, secondary identification, and</p> <p>12 supporting identification documents that are accepted</p> <p>13 for an EIC, correct?</p> <p>14 A. Yes.</p> <p>15 (Exhibit No. 57 marked.)</p> <p>16 MS. CLARK: Thank you.</p> <p>17 Q. (BY MS. CLARK) The second document I just</p> <p>18 handed you is a printout from Texas DPS's website from</p> <p>19 a page entitled, "Election Identification Certificates,</p> <p>20 EIC Documentation Requirements," is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And this -- if you can see through the staple,</p> <p>23 this printout is date stamped 4/27/2014, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So if you can look at the second page of the</p>	<p style="text-align: right;">279</p> <p>1 Q. Which one is correct?</p> <p>2 A. I believe the appendix is correct.</p> <p>3 Q. So the website is presenting incorrect</p> <p>4 information?</p> <p>5 A. Well, it's incomplete.</p> <p>6 Q. Incomplete information.</p> <p>7 So were DPS employees trained to accept</p> <p>8 an American Indian card as form of primary</p> <p>9 identification?</p> <p>10 A. I can't tell you that they were.</p> <p>11 Q. Were they trained to accept a Northern Mariana</p> <p>12 card?</p> <p>13 A. I can't tell you that they were.</p> <p>14 Q. Can you go to the secondary identification</p> <p>15 category?</p> <p>16 A. On which document?</p> <p>17 Q. On the website printout, please.</p> <p>18 A. Okay.</p> <p>19 Q. And if you could compare the documents listed</p> <p>20 there as acceptable secondary identification to the</p> <p>21 ones listed on -- in Appendix G.</p> <p>22 A. Okay.</p> <p>23 Q. Are they the same?</p> <p>24 A. There's an omission in the website with</p> <p>25 respect the DHS -- or the Department of State Health</p>
<p style="text-align: right;">278</p> <p>1 website printout, at the top, it says "Primary</p> <p>2 Identification"?</p> <p>3 A. Yes.</p> <p>4 Q. "Applicants can present one primary document."</p> <p>5 What are the documents that are listed</p> <p>6 there?</p> <p>7 A. "Texas driver's license or personal</p> <p>8 identification card issued to the person that has been</p> <p>9 expired for 60 days and is within two years of</p> <p>10 expiration may be presented as primary identification."</p> <p>11 Q. And going back to Exhibit G, does that list</p> <p>12 the same documents for --</p> <p>13 A. Going back to where?</p> <p>14 Q. Exhibit G from the other document we were --</p> <p>15 I'm sorry. Appendix G from the other document we were</p> <p>16 just looking at.</p> <p>17 A. Okay. And what's your question?</p> <p>18 Q. Whether the primary identification matches the</p> <p>19 one that appears on your website?</p> <p>20 A. The website doesn't mention an American Indian</p> <p>21 card, I872.</p> <p>22 Q. Does it mention a Northern Mariana card, I873?</p> <p>23 A. It does not. It does not.</p> <p>24 Q. What accounts for the discrepancy?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">280</p> <p>1 Services record of birth issued only for the purpose of</p> <p>2 obtaining an EIC.</p> <p>3 Q. So is it correct that the Texas Department of</p> <p>4 State Health Services record of birth issued only for</p> <p>5 the purpose of obtaining an EIC is an acceptable form</p> <p>6 of secondary identification for an EIC?</p> <p>7 A. It is. It is.</p> <p>8 Q. Why is the website not updated to reflect</p> <p>9 that?</p> <p>10 A. Someone just didn't update it.</p> <p>11 Q. Do you know whether there's any information on</p> <p>12 DPS's website about this EIC birth certificate?</p> <p>13 A. I'm not aware.</p> <p>14 Q. You're not aware of any?</p> <p>15 A. I'm not aware of any on the website.</p> <p>16 Q. Do you know if DPS did any publication or</p> <p>17 otherwise attempted to raise public awareness of the</p> <p>18 EIC birth certificate?</p> <p>19 A. I'm not aware of any.</p> <p>20 Q. Thank you.</p> <p>21 So I would like to transition a little</p> <p>22 bit into talking about outreach and assistance to the</p> <p>23 public as well as public education.</p> <p>24 Does DPS have a campaign to advertise the</p> <p>25 EIC issuance program?</p>

JOE PETERS

4/30/2014

71 (Pages 281 to 284)

<p style="text-align: right;">281</p> <p>1 A. I don't know that I could classify it as a 2 campaign. There is an effort -- an ongoing effort to 3 keep the public apprised of the availability of EICs 4 and where they can obtain them and when they obtain 5 them and what they need to obtain one. 6 Q. So what are the primary venues in which that 7 information is publicized? 8 A. Press releases. 9 Q. That's the primary? 10 A. That's the primary. 11 Q. So where are your press releases published? 12 A. Whoever picks them up. They're sent out 13 statewide by our media office. And then if a -- if a 14 publication or an electronic media outlet chooses to 15 use them, it's up to them. Many of them do, as a 16 matter of fact. 17 Q. So how many, on average, pick up your press 18 releases? 19 A. I don't have a clue. 20 Q. Does DPS encourage media companies to pick up 21 their press releases particularly with regards to the 22 EIC program? 23 A. I don't know that they're particularly 24 encouraged. They're provided the information, and it's 25 up to them to use it or not.</p>	<p style="text-align: right;">283</p> <p>1 Q. Has DPS made any attempts to evaluate 2 saturation of the message about the EIC among the 3 public? 4 A. Not that I'm aware of. 5 Q. Has DPS set up a hotline to field calls on the 6 EIC? 7 A. Specifically for EIC? 8 Q. Yes, first that. 9 A. No, not that it was advertised; but anyone can 10 call the call center and get information on EIC's, 11 driver's license or ID cards or anything else DPS, for 12 that matter. 13 Q. So it's one hotline number? 14 A. Yes. 15 Q. But was that hotline number advertised in -- 16 or publicized in any press releases or anything else 17 specifically pertaining to EICs? 18 A. I don't remember specifically that it was in 19 the press releases. I believe there is a "for further 20 information" contact. And on some of them that number 21 was published. Now, whether the outlets picked it up 22 or not was up to them. 23 Q. That's up to the outlet, that's not DPS? 24 A. Yeah. Yeah. 25 Q. Does DPS -- do DPS offices have designated</p>
<p style="text-align: right;">282</p> <p>1 Q. Are there any other forms that your -- that 2 your EIC public education program takes outside of 3 press releases? 4 A. Social media. 5 Q. What does that consist of? 6 A. I know they have a Twitter feed. I think 7 there's a Facebook page. But again, media and 8 communications would be the ones to answer the 9 question. 10 Q. And would the best person from media and 11 communications to answer that question be Katherine 12 Sessinger? 13 A. It would. 14 Q. Okay. So how much money was budgeted in 2013 15 to publicize the EIC program? 16 A. None that I'm aware of. 17 Q. No money was budgeted for that? 18 A. Well, not that I'm aware of; but I'm also not 19 familiar with the media and communications budget. 20 Q. So Ms. Sessinger would be? 21 A. Yes. 22 Q. Thank you. 23 Were there any particular groups or 24 populations targeted by DPS for EIC public education? 25 A. No, not that I'm aware of.</p>	<p style="text-align: right;">284</p> <p>1 lines for individuals seeking EICs? 2 A. No. 3 Q. How is that decision arrived at? 4 A. How was the decision not to provide EIC 5 dedicated lines? 6 Q. Yes. 7 A. There was just -- there was no decision made 8 not to provide them. We already have telephone lines 9 available for anything involving DPS or a driver's 10 license. 11 Q. I'm sorry. I was unclear. I meant any 12 windows at the offices or lines as an actual. You -- 13 A. Oh, I thought you were talking about telephone 14 lines. I'm sorry. 15 Q. Sorry. That was unclear. 16 A. No, there's not an EIC line in a driver's 17 license office, if that's your question. 18 Q. Yes. 19 A. No. 20 Q. And how was that decision arrived at? 21 A. Volume. 22 Q. So that decision was arrived at after EICs 23 were already being issued? 24 A. Yes. 25 Q. And that was because DPS decided that not</p>

JOE PETERS

4/30/2014

72 (Pages 285 to 288)

<p style="text-align: right;">285</p> <p>1 enough people were coming in to warrant a separate 2 line?</p> <p>3 A. Yeah. We couldn't -- we couldn't afford to 4 dedicate a customer service representative to an empty 5 line.</p> <p>6 Q. So would an individual who did come in for an 7 EIC be somehow expedited, even if there isn't a 8 separate line?</p> <p>9 A. Well, to the extent that -- that an office has 10 a queuing system that would indicate what they're there 11 for and then they would be directed to the appropriate 12 line. And that appropriate line may be the original 13 application line depending on what the volume of 14 customers is at the time the applicant comes in. 15 They're dynamically allocated.</p> <p>16 Q. That's at larger DPS offices?</p> <p>17 A. Those offices that have queuing systems in 18 place.</p> <p>19 Q. Are those larger offices?</p> <p>20 A. Typically, yes.</p> <p>21 Q. Okay.</p> <p>22 (Exhibit No. 58 marked.)</p> <p>23 Q. (BY MS. CLARK) So this document is a poster 24 that says, "Election Identification Certificates 25 Available Here." Is that correct?</p>	<p style="text-align: right;">287</p> <p>1 headquarters building. We authorized the local offices 2 to have them printed at local prints shops.</p> <p>3 Q. So it was up to the local offices as to 4 whether or not they wanted to display them?</p> <p>5 A. No. They -- they were required to display 6 them. It was up to them to get them printed, and that 7 was done in order to save time and shipping costs.</p> <p>8 Q. Were -- did headquarters -- in addition to 9 requiring the offices to display them, did they tell 10 them where to display them or how many to put up in a 11 particular office?</p> <p>12 A. I don't recall the specifics of where they had 13 to -- what they were told about where they had to 14 display them.</p> <p>15 Q. Did -- were these documents displayed anywhere 16 other than DPS offices and potentially at mobile EIC 17 issuing units?</p> <p>18 A. I'm not aware. I think the -- well, mobile 19 stations for the Secretary of State used them. I don't 20 know who else would have.</p> <p>21 Q. Was any effort made to put these posters in 22 places such as community centers or non-DPS-affiliated 23 offices?</p> <p>24 A. Only if there was a mobile station there.</p> <p>25 Q. So are people who come to a DPS office more</p>
<p style="text-align: right;">286</p> <p>1 A. Yes.</p> <p>2 Q. Where is this displayed?</p> <p>3 A. These were typically displayed as door signs 4 on the front of the -- or the entrance to the driver's 5 license offices or the mobile stations.</p> <p>6 Q. Or the mobile stations?</p> <p>7 A. Yeah. This was developed for the driver 8 license offices. And I can't say they used the same 9 signs for the mobile stations 'cause they had banners.</p> <p>10 Q. Okay. So did --</p> <p>11 A. And -- I'm sorry. Go ahead.</p> <p>12 Q. No. Go ahead.</p> <p>13 A. And I don't remember for sure, but I believe 14 this is the same format for the banners.</p> <p>15 Q. Where were the banners displayed?</p> <p>16 A. Outside the building.</p> <p>17 Q. Outside of DPS offices?</p> <p>18 A. Yes. And if -- in the case of the mobile 19 stations, if it could be displayed outside the 20 building, it was; otherwise, it was inside the building 21 near the issuance point.</p> <p>22 Q. Okay. So did DPS headquarters distribute this 23 sign and the banner that looks similar to this sign to 24 local offices?</p> <p>25 A. We did not distribute them from the</p>	<p style="text-align: right;">288</p> <p>1 likely to have ID than people who go to other places?</p> <p>2 A. (No verbal response.)</p> <p>3 Q. If someone is coming to a DPS office, are they 4 likely to already have ID?</p> <p>5 A. I can't answer the question. I don't know.</p> <p>6 Q. Okay. Was there any -- did you speak with any 7 politicians, local community leaders, anybody else 8 about whether they would be interested in displaying 9 this or similar signage?</p> <p>10 A. I did not.</p> <p>11 Q. Did DPS? I'm sorry.</p> <p>12 A. I don't know whether they were or not.</p> <p>13 Q. Was this document produced in Spanish as well?</p> <p>14 A. It was.</p> <p>15 Q. Are your press releases also written in 16 Spanish?</p> <p>17 A. I've not seen one in Spanish, and I can't tell 18 you whether they were.</p> <p>19 Q. Do Spanish language media outlet's pick up 20 your press releases?</p> <p>21 A. They do.</p> <p>22 Q. Was there targeting of your press releases at 23 Spanish language media outlets?</p> <p>24 A. No.</p> <p>25 Q. Does DPS Tweet in Spanish?</p>

JOE PETERS

4/30/2014

73 (Pages 289 to 292)

<p style="text-align: right;">289</p> <p>1 A. Do we what?</p> <p>2 Q. Tweet in Spanish?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you Facebook post in Spanish?</p> <p>5 A. I don't know that either.</p> <p>6 Q. Thank you.</p> <p>7 A. I'm not a Facebook person or a Twitter person.</p> <p>8 Q. Fair enough.</p> <p>9 (Exhibit No. 59 marked.)</p> <p>10 Q. (BY MS. CLARK) So this is an e-mail. The</p> <p>11 second e-mail from the top on this page is an e-mail</p> <p>12 from Keith Ingram to Joyce Cohen entitled, "Mobile</p> <p>13 EIC." Is that correct?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Do you know who Keith Ingram is?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Who is he?</p> <p>18 A. He's with the Secretary of State's office.</p> <p>19 Q. Who is Joyce Cohen?</p> <p>20 A. I don't know who that is.</p> <p>21 Q. Okay. So in this e-mail Keith Ingram says,</p> <p>22 "We think during business hours is better."</p> <p>23 Do you see that?</p> <p>24 A. Where are you?</p> <p>25 Q. The second e-mail from the top of the page.</p>	<p style="text-align: right;">291</p> <p>1 A. The facilities. You know, we had a county</p> <p>2 facility, for example, that was not open after regular</p> <p>3 business hours. That would have been a problem.</p> <p>4 Q. So it was more convenient for DPS staff for</p> <p>5 them -- for the units to be open during business hours?</p> <p>6 A. Well, that's part of the reason.</p> <p>7 Q. And you believe it was also more convenient</p> <p>8 for applicants for the mobile unit to be open during</p> <p>9 business hours?</p> <p>10 A. Possibly.</p> <p>11 Q. Did DPS consider whether it would be more</p> <p>12 convenient for the applicants to be able to get an EIC</p> <p>13 in the evening?</p> <p>14 A. We did.</p> <p>15 Q. So what leads you to say now that business</p> <p>16 hours is more convenient for the applicants?</p> <p>17 A. I don't know. I just -- that was my</p> <p>18 assumption that, you know, they're accustomed to doing</p> <p>19 business during business hours and not necessarily</p> <p>20 accustomed to trying to get business done after</p> <p>21 business hours.</p> <p>22 Q. Even if they also have their own business,</p> <p>23 such as work, during business hours?</p> <p>24 A. Yes.</p> <p>25 Q. Was there any consideration given to whether</p>
<p style="text-align: right;">290</p> <p>1 A. Okay.</p> <p>2 Q. Where he starts with the line, "Excellent."</p> <p>3 And in the middle of that line he says, "We think</p> <p>4 during business hours is better."</p> <p>5 Do you see that?</p> <p>6 A. Yes, I do.</p> <p>7 Q. So do you agree that he seems to be responding</p> <p>8 to a question about the hours for a county unit issuing</p> <p>9 EICs?</p> <p>10 A. One could assume that, but I don't know what</p> <p>11 he was intending to do.</p> <p>12 Q. You didn't -- I know you weren't on this</p> <p>13 e-mail.</p> <p>14 A. Correct.</p> <p>15 Q. But is that your understanding of what he is</p> <p>16 talking about?</p> <p>17 A. Based on what I read, yes.</p> <p>18 Q. Okay. Did -- does DPS -- did DPS prefer to</p> <p>19 operate the mobile units during business hours?</p> <p>20 A. Well, we would have preferred to operate them</p> <p>21 during business hours just because we -- it was more</p> <p>22 convenient for all concerned.</p> <p>23 Q. Who is "all concerned"?</p> <p>24 A. The applicants, the staff.</p> <p>25 Q. So it's your testimony --</p>	<p style="text-align: right;">292</p> <p>1 weekends might be more convenient for people?</p> <p>2 A. Yes, there was.</p> <p>3 Q. And were mobile EIC units run on weekends?</p> <p>4 A. I believe there were some that were run on</p> <p>5 weekends, but I can't tell you when or where.</p> <p>6 Q. Is there a document that would catalog which</p> <p>7 mobile EIC units were run on weekends?</p> <p>8 A. If -- if they were run on weekends, yes, there</p> <p>9 would be.</p> <p>10 Q. But you don't know that they were?</p> <p>11 A. No.</p> <p>12 Q. Who at DPS would know?</p> <p>13 A. Probably Mr. Rodriguez would be the best since</p> <p>14 he created the matrix that showed all of those</p> <p>15 locations and times.</p> <p>16 Q. Would Mr. Rodriguez also be able to testify</p> <p>17 about whether there were any mobile EIC units that were</p> <p>18 run after -- outside of business hours during the week?</p> <p>19 A. Yes, he would.</p> <p>20 Q. He would. Okay. Thank you.</p> <p>21 MR. KEISTER: One at a time. She keeps</p> <p>22 looking at me.</p> <p>23 MS. CLARK: Sorry.</p> <p>24 THE WITNESS: Well, she needs to just</p> <p>25 kick me.</p>

JOE PETERS

4/30/2014

74 (Pages 293 to 296)

<p style="text-align: right;">293</p> <p>1 Q. (BY MS. CLARK) So is it accurate then to say</p> <p>2 that DPS believed during business hours it was better,</p> <p>3 too?</p> <p>4 A. Yes.</p> <p>5 Q. Thank you.</p> <p>6 (Exhibit No. 60 marked.)</p> <p>7 MR. KEISTER: Thank you.</p> <p>8 Q. (BY MS. CLARK) So the document that I just</p> <p>9 handed you is entitled, "Media Publication Outreach</p> <p>10 Election Identification Certificates."</p> <p>11 Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Does this -- and this document reports to</p> <p>14 cover the times between August 30th, 2012 and</p> <p>15 February 14th, 2014; is that right?</p> <p>16 A. Correct.</p> <p>17 Q. Does this represent the entirety of DPS'</p> <p>18 public education and outreach campaign as to EIC</p> <p>19 issuance?</p> <p>20 A. I can't answer the question with any assurance</p> <p>21 of accuracy that this represents all of the outreach</p> <p>22 efforts. And the media office would be the best ones</p> <p>23 to answer that question.</p> <p>24 Q. How did DPS arrive at its media and public</p> <p>25 outreach campaigns?</p>	<p style="text-align: right;">295</p> <p>1 MS. CLARK: Okay.</p> <p>2 THE REPORTER: Off the record.</p> <p>3 (Recess from 4:08 p.m. to 4:15 p.m.)</p> <p>4 THE REPORTER: Back on the record.</p> <p>5 Q. (BY MS. CLARK) So I just want to visit a</p> <p>6 couple of things that we talked about. First, going</p> <p>7 back to employee training within DPS, I think you</p> <p>8 testified earlier that if an employee was not trained</p> <p>9 on EIC issuance, then they weren't permitted to issue</p> <p>10 an EIC; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. So if an employee wasn't trained on EIC</p> <p>13 issuance, were they not permitted to then work their</p> <p>14 next shift?</p> <p>15 A. I'm not sure I understand your question.</p> <p>16 Q. So --</p> <p>17 A. If they weren't trained.</p> <p>18 Q. Yes. On EIC issuance.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Then your testimony is that they would not be</p> <p>21 allowed to issue EICs; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. How would -- how is that monitored?</p> <p>24 A. The supervisors would be monitoring that.</p> <p>25 Q. Would they be monitoring that by not allowing</p>
<p style="text-align: right;">294</p> <p>1 A. I don't know.</p> <p>2 Q. Does DPS have an statutory obligation under</p> <p>3 S.B.14 to advertise or otherwise publicize the EIC</p> <p>4 campaign?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. Is there any other formal requirement that DPS</p> <p>7 do so?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. Does DPS have any obligation to publicize the</p> <p>10 EIC program?</p> <p>11 A. Maybe a moral and ethical obligation, but no</p> <p>12 written.</p> <p>13 Q. Is there another entity other than DPS who is</p> <p>14 more responsible in educating the public -- for</p> <p>15 educating the public about EIC?</p> <p>16 MR. KEISTER: Objection, form; calls for</p> <p>17 speculation.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 Q. (BY MS. CLARK) So you haven't seen any</p> <p>20 documents that would indicate who has that</p> <p>21 responsibility?</p> <p>22 A. No.</p> <p>23 MS. CLARK: All right. I pass the</p> <p>24 witness. Thank you.</p> <p>25 MS. RUDD: Let's go off the record.</p>	<p style="text-align: right;">296</p> <p>1 them to work?</p> <p>2 A. They -- no. They're still -- they can still</p> <p>3 issue or process driver license transactions and ID</p> <p>4 card transactions.</p> <p>5 Q. So is it true, then, that no employee can</p> <p>6 issue an EIC without first going to their supervisor?</p> <p>7 A. Well, they have to be trained.</p> <p>8 Q. But how does -- I understand that.</p> <p>9 A. The supervisor has the capability of</p> <p>10 monitoring what a customer service representative is</p> <p>11 doing at their station, and it would be kind of an</p> <p>12 audit process where they take -- excuse me -- a sample</p> <p>13 of who is doing what.</p> <p>14 Q. So you're saying, then, that any employee that</p> <p>15 had not been trained on EICs after the point at which</p> <p>16 Texas began issuing the EICs, would have been</p> <p>17 consistently audited and monitored until they were</p> <p>18 trained?</p> <p>19 A. No. That's not what I'm saying.</p> <p>20 Q. Then how would there -- how would it be</p> <p>21 prevented that they would encounter a customer seeking</p> <p>22 an EIC?</p> <p>23 A. It wouldn't necessarily be prevented, that I</p> <p>24 know of, you know; but the employees are told that they</p> <p>25 would not be able to issue EICs. But I'm not aware of</p>

JOE PETERS

4/30/2014

75 (Pages 297 to 300)

<p style="text-align: right;">297</p> <p>1 any of them that have not been trained for EICs.</p> <p>2 Q. So they were told, but there's no mechanism</p> <p>3 for enforcing?</p> <p>4 A. There's nothing to prevent them from doing it</p> <p>5 other than the audit and the possibility of being</p> <p>6 detected.</p> <p>7 Q. The possibility of an audit?</p> <p>8 A. Yes.</p> <p>9 Q. And possibility of being detected?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. I want to go back to another issue,</p> <p>12 when we were talking about whether -- if someone had</p> <p>13 lost their license.</p> <p>14 A. Uh-huh.</p> <p>15 Q. If someone had lost their driver license and</p> <p>16 came into the DPS office seeking a new identification</p> <p>17 card but were told -- but told the CSR that they</p> <p>18 couldn't afford a new card, what would happen at that</p> <p>19 point?</p> <p>20 A. If they couldn't afford the --</p> <p>21 Q. Replacement fee?</p> <p>22 A. Replacement fee for the driver license or the</p> <p>23 ID card, they would be given an opportunity to</p> <p>24 surrender their card, you know, sign that affidavit;</p> <p>25 and then they could be issued the EIC.</p>	<p style="text-align: right;">299</p> <p>1 circumstance?</p> <p>2 A. I don't know that either.</p> <p>3 Q. And one more question. In terms of the poster</p> <p>4 that we were looking at before, Exhibit 58, I think you</p> <p>5 mentioned that offices were required to put that up?</p> <p>6 A. Yes, our offices were.</p> <p>7 Q. DPS offices were required to put that up?</p> <p>8 A. Yes.</p> <p>9 Q. How was that enforced?</p> <p>10 A. Supervisors enforced it, and then our senior</p> <p>11 managers at headquarters made periodic random visits to</p> <p>12 the offices to ensure that proper signage is posted not</p> <p>13 only for this but regular driver's license signage.</p> <p>14 Q. So there are, as a matter of course, audits</p> <p>15 conducted?</p> <p>16 A. Correct.</p> <p>17 Q. Who conducts those?</p> <p>18 A. Generally, the -- well, the regional managers</p> <p>19 can conduct those. Office supervisors could conduct</p> <p>20 those, and the senior managers here in Austin conduct</p> <p>21 those by traveling out to the offices.</p> <p>22 Q. So there were audits done specifically to</p> <p>23 check for the posting of EIC signage?</p> <p>24 A. In some cases, there were. But the audits</p> <p>25 generally involve all of the signage that's required in</p>
<p style="text-align: right;">298</p> <p>1 Q. So when you say surrender their card in the</p> <p>2 circumstance they've lost it, so it's surrender their</p> <p>3 driving privileges?</p> <p>4 A. Yes.</p> <p>5 Q. And in order to get that EIC, would they have</p> <p>6 to provide all of the supporting documentation we've</p> <p>7 been talking about?</p> <p>8 A. For -- that they would have to supply for an</p> <p>9 EIC original application to begin with.</p> <p>10 Q. And that would be true even if their lost</p> <p>11 driver's license was not expired at the time they lost</p> <p>12 it?</p> <p>13 A. I don't know.</p> <p>14 Q. Is that written down where?</p> <p>15 A. I don't know that.</p> <p>16 Q. So if someone has not lost their license but</p> <p>17 it has been expired for more than two years. I come in</p> <p>18 with a four years expired driver's license and I can't</p> <p>19 afford to get a driver's license this time around, what</p> <p>20 would happen at that point? I have my card, but I</p> <p>21 can't afford to renew it or to take the test again.</p> <p>22 A. I don't know.</p> <p>23 Q. You don't know what would happen?</p> <p>24 A. No.</p> <p>25 Q. What were DPS employees trained to do in that</p>	<p style="text-align: right;">300</p> <p>1 an office.</p> <p>2 Q. So --</p> <p>3 A. We didn't send somebody out there to look for</p> <p>4 any EIC sign.</p> <p>5 Q. You did not do that?</p> <p>6 A. No. It was -- you know, we send them out</p> <p>7 there to look for compliance with all the signage</p> <p>8 requirements in a driver license office, this being one</p> <p>9 of them.</p> <p>10 Q. What are the signage requirements for this</p> <p>11 sign?</p> <p>12 A. For this sign?</p> <p>13 Q. Yes.</p> <p>14 A. Are you talking about where they post it or --</p> <p>15 Q. Yes.</p> <p>16 A. If this was the door sign, it was required to</p> <p>17 be posted on a door where it was visible from outside</p> <p>18 the building, you know, the entry door. If it was a</p> <p>19 banner, it was required to be posted outside the</p> <p>20 building. And typically, we tried to hang them up high</p> <p>21 where they're more visible and less prone to vandalism.</p> <p>22 Q. So how many local offices were out of</p> <p>23 compliance?</p> <p>24 A. I don't know that we had any. I was not</p> <p>25 advised, but those typically would have been resolved</p>

JOE PETERS

4/30/2014

76 (Pages 301 to 304)

<p style="text-align: right;">301</p> <p>1 on a local issue -- local basis, and I wouldn't know 2 about it. 3 Q. Is a record generated of that? 4 A. Not that I'm aware of. 5 Q. So there is no record generated? 6 A. Not that I'm aware of. 7 Q. Okay. Thank you. 8 MS. CLARK: Pass the witness. 9 EXAMINATION 10 BY MR. DOGGETT: 11 Q. I'm Robert Doggett. I'm the Texas Rio Grande 12 Legal Aid representative. I represent Ortiz 13 plaintiffs. We're almost done. 14 A. Okay. 15 Q. At least I've been told we're almost done. 16 If I could direct your attention to I 17 think what's been marked Exhibit 57. I believe 18 Jennifer just handed it to you a little bit ago. It's 19 a printout of the -- one, it appears to be a printout 20 of the -- what's on the department's website with 21 regard to EICs. And if I can direct you to top of it, 22 "To qualify for an EIC." 23 You follow me? It says "You must"? 24 A. I am following you. 25 Q. "Documentation for citizenship." And of</p>	<p style="text-align: right;">303</p> <p>1 A. Yes. 2 Q. Is it true that if you are a felon you're not 3 going to be able to vote; is that right? 4 A. That's my understanding, but we don't control 5 who votes and who doesn't. 6 Q. I understand. But if you're a felon, you're 7 not going to be eligible to vote; is that right? 8 A. Well, that's my understanding. 9 Q. Well, wouldn't DPS want to make sure you're 10 eligible to vote and that would be checking their 11 criminal background? 12 A. No. It's up to the -- our understanding is, 13 is that it's up to the election judge as to who votes 14 and who doesn't. 15 Q. So when it says in your website, for example, 16 and possibly other sources, that you must be eligible 17 to vote in Texas, that's not DPS making that 18 determination? 19 A. That they must be eligible to vote? 20 Q. Yes. That's -- I'm just reading it verbatim. 21 A. No. We don't make that determination. 22 Q. So when you tell someone that they have to be 23 eligible to vote, you're not suggesting that anyone is 24 checking their criminal background? 25 A. We're not suggesting that. We are not</p>
<p style="text-align: right;">302</p> <p>1 course, it details it underneath. "Documentation to 2 verify identity," which it, again lists specifics. But 3 it says, "To be eligible to vote in Texas." And I 4 think you talked about that originally this morning -- 5 seems like forever ago -- about how someone didn't 6 necessarily have to have their voter registration card 7 when they came in to apply. 8 Is that right? Did I remember that 9 right? 10 A. That's correct. 11 Q. So if someone comes in and says, "I think I'm 12 registered," then you would take that to mean that they 13 could go ahead and apply for an EIC, at least on that 14 bases? 15 A. Yes. And if -- do we have the application for 16 an EIC here? 17 MS. CLARK: Yes. 18 MR. DOGGETT: I guess I'm marking 19 something. 20 (Exhibit No. 61 marked.) 21 Q. (BY MR. DOGGETT) Is 61 the application, as 22 far as you know? 23 A. Yes. 24 Q. And I assume you're talking about the yes or 25 no box, No. 1?</p>	<p style="text-align: right;">304</p> <p>1 checking criminal background. 2 Q. Okay. Underneath there it says, also, "Be" -- 3 I'm back to this Exhibit 57. "Be a Texas resident." I 4 don't see any sort of information or documentation 5 required in order to prove you're a Texas resident. 6 What is that? What are those 7 requirements? 8 A. I don't know. 9 Q. Well -- 10 A. Oh, I know, too, you could bring in the form 11 of the supporting identification, school records, 12 insurance policies, boat or title registration, pilots 13 license, any of those that would have your address on 14 it. 15 Q. So in other words, you would use the 16 supporting identification materials. That's what 17 you'll reference? 18 A. We could, yes, sir. 19 Q. Okay. But normally, or at least as I read 20 both the regulations and the website, the supporting 21 document or identification is -- is essentially an 22 element of proving who you are, not necessarily your 23 residency; is that right? 24 A. Yes, sir. 25 Q. Okay. So there's -- but there's nothing</p>

JOE PETERS

4/30/2014

77 (Pages 305 to 308)

<p style="text-align: right;">305</p> <p>1 that's issued to the public, that I can find, that</p> <p>2 would tell them what they need to bring in order to</p> <p>3 qualify as a Texas resident.</p> <p>4 Is that right or no?</p> <p>5 A. Say that again now.</p> <p>6 Q. Well, how does the public know what they're</p> <p>7 supposed to bring to the DPS office is what I'm trying</p> <p>8 to get at.</p> <p>9 A. Well, they had -- the information is on the</p> <p>10 website.</p> <p>11 Q. Yes. And on the website it doesn't say what</p> <p>12 you need to bring in order to prove you're a Texas</p> <p>13 resident.</p> <p>14 A. Okay. I see what you're saying.</p> <p>15 Q. Is that --</p> <p>16 A. No.</p> <p>17 Q. Is that right? So there's nothing?</p> <p>18 A. I don't see it readily.</p> <p>19 Q. And for example, on the supporting</p> <p>20 identification documents listed, it includes an</p> <p>21 out-of-state driver's license, right? That would be J,</p> <p>22 it looks like?</p> <p>23 A. Yes.</p> <p>24 Q. All right. So you could bring in J and</p> <p>25 possibly a secondary identification document; for</p>	<p style="text-align: right;">307</p> <p>1 will be used unless the applicant does not have three</p> <p>2 names."</p> <p>3 What about four names?</p> <p>4 A. Four names is acceptable.</p> <p>5 Q. Okay. And -- I mean, I assume you're familiar</p> <p>6 with the Hispanic naming convention?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Been here awhile?</p> <p>9 A. Yes, sir.</p> <p>10 Q. When I read the regulation and, frankly, you</p> <p>11 know, the other page of the website that talks about</p> <p>12 EIC, nowhere does it talk about anything with regard to</p> <p>13 complying when your names don't match in the situation</p> <p>14 where you have two surnames; a maiden surname and a</p> <p>15 paternal surname.</p> <p>16 Are you aware of any policy, procedure,</p> <p>17 any instructions, training materials, anything that</p> <p>18 talks about that problem?</p> <p>19 A. I'm not aware of that -- of training material</p> <p>20 that specifically addresses that, but we -- we do</p> <p>21 include the names if they can prove that they have</p> <p>22 them.</p> <p>23 Q. Well, but you understand that --</p> <p>24 A. If they bring in a birth certificate, for</p> <p>25 example, that shows the mother's maiden name and the</p>
<p style="text-align: right;">306</p> <p>1 example, you know, A, B or C or D, right, and it may</p> <p>2 not have your address. And then you would go to DPS</p> <p>3 office; and they would say, "I'm sorry. You need to</p> <p>4 get something to prove your current residence."</p> <p>5 Isn't that fair to say?</p> <p>6 A. That's fair to say.</p> <p>7 Q. So they would have to go back home or find one</p> <p>8 of these other documents?</p> <p>9 A. I don't think so. If they have the supporting</p> <p>10 document, then they're good to go.</p> <p>11 Q. Right. But how would they know what documents</p> <p>12 they need is my point?</p> <p>13 A. Well, I'm not sure how to answer the question.</p> <p>14 Q. Okay. I'm not trying to belabor the point.</p> <p>15 A. Okay. I understand.</p> <p>16 Q. If I could direct you to the regulations --</p> <p>17 that was early this morning -- Exhibit 38. You</p> <p>18 probably know them much better than I do. At 15.183,</p> <p>19 it's labelled Page 3 at the top.</p> <p>20 A. Okay. Page 3 at the top?</p> <p>21 Q. Yes, sir. It's Section 15.183 starting with,</p> <p>22 "A1," talking about a married woman may use her maiden</p> <p>23 name, et cetera.</p> <p>24 A. Uh-huh.</p> <p>25 Q. If you continue on, it says, "Three full names</p>	<p style="text-align: right;">308</p> <p>1 father's name -- and typically those are hyphenated --</p> <p>2 then we would issue the card or the document under that</p> <p>3 circumstance where we can put two names on the first</p> <p>4 field or three names, depending on the limits of the</p> <p>5 characters within a field.</p> <p>6 Q. So in other words, for the -- do you have</p> <p>7 three fields in the DPS system, or you have multiple</p> <p>8 fields for the --</p> <p>9 A. For the names, there are two separate lines,</p> <p>10 if I remember correctly.</p> <p>11 Q. So you -- and I'm just going to use</p> <p>12 nomenclature that I see on these entries.</p> <p>13 There's a first, middle, and last name?</p> <p>14 A. Uh-huh.</p> <p>15 Q. And for the last name, it's DPS policy to put</p> <p>16 both the maternal and the paternal last names in there,</p> <p>17 surnames?</p> <p>18 A. In one field?</p> <p>19 Q. Yes.</p> <p>20 A. We can do that.</p> <p>21 Q. Okay. But which is the normal policy</p> <p>22 procedure that DPS uses?</p> <p>23 MR. KEISTER: Objection, vague.</p> <p>24 Q. (BY MR. DOGGETT) What do you -- how do you</p> <p>25 normally do that if somebody has two surnames; maternal</p>

JOE PETERS

4/30/2014

78 (Pages 309 to 312)

<p style="text-align: right;">309</p> <p>1 and a paternal?</p> <p>2 You understand that's a common practice?</p> <p>3 A. Yeah. That is common practice and we have</p> <p>4 encountered this and we have included both names in the</p> <p>5 first field. As long as we don't exceed the capacity</p> <p>6 of the field, which I think is 26 characters.</p> <p>7 Q. I mean, you say first field.</p> <p>8 What do you mean by "first field"? I'm</p> <p>9 not sure.</p> <p>10 A. There's a field for last name. There's a</p> <p>11 field for first name, and I believe there's a field for</p> <p>12 middle name.</p> <p>13 Q. So if someone has and provides some</p> <p>14 documentation of a maternal and a paternal surname,</p> <p>15 two, and you understand that the convention is that a</p> <p>16 person may very well have four names, if you will, a</p> <p>17 first name, it's given name; a second given name, what</p> <p>18 I would call a middle.</p> <p>19 A. Uh-huh.</p> <p>20 Q. And then a maternal and then a paternal,</p> <p>21 right?</p> <p>22 A. Uh-huh. Yes.</p> <p>23 Q. And that sometimes people make a mistake and</p> <p>24 they recognize that the maternal is actually their last</p> <p>25 name when, in fact, they may very well may use their</p>	<p style="text-align: right;">311</p> <p>1 applicant.</p> <p>2 Q. And I'm talking about --</p> <p>3 A. Is that what you're talking about?</p> <p>4 Q. No, sir. I don't believe so.</p> <p>5 A. I'm sorry.</p> <p>6 Q. That's okay. I'm talking about the named</p> <p>7 plaintiffs in this litigation, the actual individuals</p> <p>8 that have filed the various cases.</p> <p>9 A. Oh, I'm sorry. Now, what's your question?</p> <p>10 Q. My question is: Of those people, has DPS done</p> <p>11 some sort analysis of those?</p> <p>12 A. Not that I'm aware of.</p> <p>13 Q. Any research or anything?</p> <p>14 A. No, not that I'm aware of.</p> <p>15 Q. When you were talking moments ago, you were</p> <p>16 talking about people that have applied for the EIC; is</p> <p>17 that correct?</p> <p>18 A. Correct.</p> <p>19 Q. And that analysis, the results of that</p> <p>20 analysis, I assume you've produced that in documents</p> <p>21 already in this litigation?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay. Was that recently done, or was that</p> <p>24 some time ago?</p> <p>25 A. Fairly recently.</p>
<p style="text-align: right;">310</p> <p>1 fraternal name or -- sorry. I'm getting confused --</p> <p>2 paternal. Fraternal is a brother. Whoops. You follow</p> <p>3 me?</p> <p>4 A. I think I do.</p> <p>5 Q. Okay. So you -- in the one name field for</p> <p>6 last name, you put them both in there; and you</p> <p>7 hyphenate them?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, is it your testimony that there's</p> <p>10 really no policy, custom, practice that you're aware of</p> <p>11 that sort of addresses this, other than sort of your</p> <p>12 general understanding of --</p> <p>13 A. Not that I'm aware of.</p> <p>14 Q. Okay. Has your office done any</p> <p>15 investigations, research, or analysis on any of the</p> <p>16 named individuals that are a party to this case?</p> <p>17 A. To what extent?</p> <p>18 Q. Any extent. Are you aware of any of it being</p> <p>19 done?</p> <p>20 A. Analysis of the named individuals?</p> <p>21 Q. Yes.</p> <p>22 A. Well, we did look at areas of the state by zip</p> <p>23 code that applicants were coming from. We looked at</p> <p>24 the race of the applicants, at the request of Senator</p> <p>25 Ellis, I believe. We looked at the age of the</p>	<p style="text-align: right;">312</p> <p>1 Q. How long ago?</p> <p>2 A. I don't remember.</p> <p>3 Q. A month, more than two?</p> <p>4 A. It was probably more than a month.</p> <p>5 Q. Okay.</p> <p>6 A. In fact, it may have been more than two.</p> <p>7 Q. Okay. Referring back to Exhibit 38. I was</p> <p>8 almost done, I'm sorry to say but not quite. Under</p> <p>9 15.183, the same page, if you look down, it talks about</p> <p>10 A2, the applicant's place and date of birth.</p> <p>11 Do you see that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Requirement for an EIC?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What authority does DPS cite as the basis for</p> <p>16 requesting their place of birth?</p> <p>17 A. This rule.</p> <p>18 Q. Okay. Is there any statutory basis for</p> <p>19 requesting that information?</p> <p>20 A. I believe it's in the Transportation Code.</p> <p>21 I'm not absolutely certain that's where it is.</p> <p>22 Q. Okay. So I'm not aware -- Exhibit 37, on S.B.</p> <p>23 14 itself, you're not citing that as a basis for</p> <p>24 requesting that information?</p> <p>25 A. No. No.</p>

JOE PETERS

4/30/2014

79 (Pages 313 to 316)

<p style="text-align: right;">313</p> <p>1 Q. And the only reference to the Transportation 2 Code that I can find is Section 521.142. It just says, 3 "The Department may require each applicant for an 4 original or renewal election identification certificate 5 to furnish to the Department the information required 6 by that," Section 521.142. 7 Possibly that's what you're talking about 8 that? 9 A. That's what I think I'm talking about. 10 Q. I understand. It's not a test. 11 A. Okay. 12 Q. I couldn't tell you the number in two minutes 13 from now. 14 A. Yeah. 15 Q. And in reviewing that section, I'll represent 16 to you that it has a lot of things that -- that are 17 mentioned; thumb print, photograph, signature, brief 18 description, things I've seen before; the sex, these 19 kind of questions. And nowhere does it say anything 20 specific about their place of birth. There is one 21 section that says "The Department" -- I believe it 22 says, "The Department" -- sorry -- "The application 23 must include other information the Department requires 24 to determine the applicant's identity, residency, 25 competency, and eligibility as required by the</p>	<p style="text-align: right;">315</p> <p>1 consistent with that? 2 A. That's correct. 3 Q. Okay. By the way, on the website -- and I 4 referenced it earlier -- you would agree that -- that 5 that is one place that the public would get information 6 from; is that right? 7 A. Correct. 8 Q. So when you have this listing of your various 9 press releases, which may or may not be picked up by 10 news organizations and Tweets, certainly the Internet 11 itself and your website itself would be one place you 12 should be able to get information? 13 A. Yes. 14 Q. And -- and thus, why I'm asking about it, 15 because, obviously, this is a -- definitely one 16 location that the public would want to gather 17 information from. 18 Do you have any idea how many times the 19 public has accessed this information off the website? 20 A. I don't. 21 Q. If that information was kept, it would be kept 22 by the web department, media department, something like 23 that? 24 A. Yes, sir. 25 Q. In the break I showed you a page that if you</p>
<p style="text-align: right;">314</p> <p>1 Department or state law." Sort of a fairly broad 2 question. Is that possibly where maybe the authority 3 could come from? 4 A. Yes, sir. 5 Q. I left that wide open, didn't I? 6 Well, I'm wondering if the place of 7 birth, how that could impact or make a determination of 8 someone's identity. I mean, just because you know 9 where they're born, would that somehow or another make 10 the department feel like: I'm comfortable with that's 11 who they say they are, 'cause you know where they were 12 born? 13 A. I can't answer the question. 14 Q. Okay. What about any of the others; 15 residency, competency, or eligibility? I'm just trying 16 to understand why it would make any difference to the 17 department where you're born in order to get an EIC. 18 A. I -- I don't have an answer for why where 19 you're born makes a difference. 20 Q. Is that -- by the way, I assume -- or I don't 21 know, actually. Is -- is the place of birth also 22 required in order to get a driver's license and any 23 other -- and the personal identification card? 24 A. I believe it is. 25 Q. Okay. So if it is, then, this would just be</p>	<p style="text-align: right;">316</p> <p>1 type in DPS and EIC, that's all you type. I represent 2 to you that this one page comes up first or second 3 every time. 4 A. Yes, sir. 5 Q. Google. Sorry. Using the -- you know, 6 these -- an unknown quantity to Google, right, not 7 being the other ones are. And I showed you that at the 8 break, and I'm not going to test you on it. I just 9 wanted you to look it over very briefly, and I don't 10 have a printout of it. But I'll represent to you that 11 it says -- and this is the final thing. Okay? Final 12 topic. 13 It says that -- that if you're using a 14 name other than what's on your birth certificate, for 15 example, your married name, you will be required to 16 show legal documentation of your name change. I'm just 17 reading right off the website. 18 A. I understand. 19 Q. "Documents must be original certified. No 20 photocopies may be accepted. Acceptable documents are 21 one, marriage license; two, divorce decree; or three, 22 court ordered name change." I'll represent to you that 23 that's the information I got. 24 Does that sound like accurate information 25 to you that DPS would want to put out?</p>

JOE PETERS

4/30/2014

80 (Pages 317 to 320)

<p style="text-align: right;">317</p> <p>1 A. Yes.</p> <p>2 Q. How come there's nothing else about this</p> <p>3 problem if your name doesn't match? In other words, we</p> <p>4 talked about it a few minutes ago. There could be a</p> <p>5 lot of reasons why names don't match. All it says is</p> <p>6 you can -- you need to bring your marriage license,</p> <p>7 divorce decree, or court ordered name change. It seems</p> <p>8 to me there would be other things you could bring</p> <p>9 besides those things in order to address the problem of</p> <p>10 different surnames on your various supporting or</p> <p>11 primary documentation.</p> <p>12 A. If I understand --</p> <p>13 MR. KEISTER: Objection, vague.</p> <p>14 Go ahead.</p> <p>15 Q. (BY MR. DOGGETT) If you can figure that</p> <p>16 question out, feel free.</p> <p>17 A. I'm working on that.</p> <p>18 Q. Thank you. You're kind at the end of the day.</p> <p>19 A. It's my understanding that the supporting</p> <p>20 documentation, if they bring something in that's not on</p> <p>21 that list --</p> <p>22 Q. Yes.</p> <p>23 A. -- that the office supervisor makes a</p> <p>24 determination as to whether or not that might be</p> <p>25 acceptable.</p>	<p style="text-align: right;">319</p> <p>1 could get him to answer.</p> <p>2 MR. KEISTER: He's trying to be helpful,</p> <p>3 I can tell.</p> <p>4 MR. DOGGETT: He is trying to be helpful.</p> <p>5 He's tired, and I am too. I appreciate it.</p> <p>6 Q. (BY MR. DOGGETT) It was your testimony</p> <p>7 earlier, by the way, on the cost of secondary</p> <p>8 information or any of the costs, that you're not</p> <p>9 familiar with how much it costs to obtain any of these</p> <p>10 other supporting documents; is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. Even the ones that are issued by DPS</p> <p>13 themselves or no?</p> <p>14 A. What other ones would you be referring to</p> <p>15 issued by DPS?</p> <p>16 Q. Well, I don't know. Maybe DPS doesn't issue</p> <p>17 any of the supporting documentation.</p> <p>18 Is that right, they -- they just don't</p> <p>19 issue it? They don't issue anything?</p> <p>20 A. I'm not aware of any supporting documentation</p> <p>21 that DPS would issue.</p> <p>22 Q. Okay. Okay.</p> <p>23 MR. DOGGETT: Pass the witness.</p> <p>24</p> <p>25</p>
<p style="text-align: right;">318</p> <p>1 Q. I understand. But if this is all that's on</p> <p>2 the website when it talks about a name mismatch and it</p> <p>3 doesn't really tell you any of this other</p> <p>4 information --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- I'm representing to you as someone that's</p> <p>7 looking at the website, I wouldn't understand what I</p> <p>8 needed to do in order to fix this problem 'cause</p> <p>9 remember, it says, "The information on the document</p> <p>10 such as name and date of birth must all match." That's</p> <p>11 that first sentence. And then it wants to talk about,</p> <p>12 you know, providing marriage license, divorce decree,</p> <p>13 everything else.</p> <p>14 So I'm saying somebody that may have four</p> <p>15 names, for example, right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Two different surnames, they have no idea how</p> <p>18 to make this fit, how to fix this problem that they've</p> <p>19 got because their names do not match, right?</p> <p>20 MR. KEISTER: Objection, vague.</p> <p>21 MR. DOGGETT: Of course.</p> <p>22 MR. KEISTER: Calls for speculation,</p> <p>23 argumentative, and there's not a question in there</p> <p>24 that --</p> <p>25 MR. DOGGETT: There's not? I bet you I</p>	<p style="text-align: right;">320</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MR. FREEMAN:</p> <p>3 Q. I just have a few very quick follow-ups.</p> <p>4 First of all, who at the Department of</p> <p>5 Public Safety is likely to have the most information</p> <p>6 about any data provided to the Secretary of State's</p> <p>7 office during legislative consideration of S.B.14?</p> <p>8 A. Any data provided? Are you talking about</p> <p>9 electronic data or --</p> <p>10 Q. Talking about jury wheel data, driver's</p> <p>11 license data, or personal identification card.</p> <p>12 A. Any of that data that came from -- that would</p> <p>13 have come from the driver's license system, the best</p> <p>14 people to answer what was actually pulled --</p> <p>15 Q. Uh-huh --</p> <p>16 A. -- who developed the query, would be those in</p> <p>17 the information technology division.</p> <p>18 Q. And the person who heads up that division is?</p> <p>19 A. Chris Sarandos.</p> <p>20 Q. Thank you.</p> <p>21 And who is likely to have the most</p> <p>22 information regarding any communications with the</p> <p>23 Secretary of State's office concerning that data?</p> <p>24 A. Probably Chief Bodisch -- or now Deputy</p> <p>25 Director Bodisch would be the person that had the most</p>

JOE PETERS

4/30/2014

81 (Pages 321 to 324)

<p style="text-align: right;">321</p> <p>1 contact with the Secretary of State's office.</p> <p>2 Q. Okay. Are you currently tracking issuance of</p> <p>3 election identification certificates?</p> <p>4 A. Yes.</p> <p>5 Q. Statewide?</p> <p>6 A. Yes.</p> <p>7 Q. By region?</p> <p>8 A. Yes. Even by zip code.</p> <p>9 Q. Are you issuing any regional reports?</p> <p>10 A. As a statewide report. We can issue a</p> <p>11 regional report if it's required, yes.</p> <p>12 Q. Are the regions offering data to DPS centrally</p> <p>13 on a weekly basis?</p> <p>14 A. They are -- they -- yes, they are. They're</p> <p>15 offering data daily.</p> <p>16 Q. Are they issuing any information specific to</p> <p>17 mobile offices?</p> <p>18 A. Is DPS issuing the information?</p> <p>19 Q. The regions offering it to central DPS.</p> <p>20 A. Yes. If -- when -- when a mobile office</p> <p>21 issues an EIC --</p> <p>22 Q. Uh-huh.</p> <p>23 A. -- that data comes back to a driver license</p> <p>24 office for upload into driver license system, and it's</p> <p>25 at that point that it's reported to headquarters.</p>	<p style="text-align: right;">323</p> <p>1 A. Yes, sir.</p> <p>2 Q. Has that been updated since?</p> <p>3 A. Yes, it has.</p> <p>4 Q. One last question. And this actually</p> <p>5 something that I think Robert was trying to get at.</p> <p>6 Can an EIC be obtained without proof of</p> <p>7 Texas residence?</p> <p>8 A. Yes, I believe it can.</p> <p>9 Q. Okay.</p> <p>10 MR. FREEMAN: Then I pass the witness.</p> <p>11 MR. DUNBAR: No more than five minutes, I</p> <p>12 promise. Probably less.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MR. DUNBAR:</p> <p>15 Q. And I apologize if I asked before. I wanted</p> <p>16 to the make sure the record is clear.</p> <p>17 Has DPS at any time done a study or</p> <p>18 analysis of expected demand for EICs?</p> <p>19 A. No, sir.</p> <p>20 Q. So as of today sitting here, there are no</p> <p>21 internal documents that look forward predicting what</p> <p>22 demand will be for EICs?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Okay. And you've testified at today, I think,</p> <p>25 in several different contexts, that references to MDILs</p>
<p style="text-align: right;">322</p> <p>1 Q. Are there any summary reports?</p> <p>2 A. Of -- of those --</p> <p>3 Q. Of those EIC issuances?</p> <p>4 A. Yes.</p> <p>5 Q. Are you currently tracking interactions with</p> <p>6 individuals who come to DPS or a mobile station seeking</p> <p>7 an EIC that do not result in an issuance of an EIC?</p> <p>8 A. Yes. We know how many people came in and</p> <p>9 actually made an application and for whatever reason</p> <p>10 didn't get one.</p> <p>11 Q. And is that, again, a statewide report?</p> <p>12 A. Yes, it is.</p> <p>13 Q. Does that name the individuals who came in?</p> <p>14 A. In some cases it does. Those that -- when an</p> <p>15 application is made and accepted and a receipt is</p> <p>16 issued and it comes to quality assurance?</p> <p>17 Q. Uh-huh.</p> <p>18 A. Then, yes, we track -- we have those names.</p> <p>19 Q. Sorry to add another -- one last exhibit.</p> <p>20 (Exhibit No. 62 marked.)</p> <p>21 Q. (BY MR. FREEMAN) Have you seen Exhibit 62</p> <p>22 before?</p> <p>23 A. Yes, I have.</p> <p>24 Q. And Exhibit 62, am I correct that that's</p> <p>25 present as of -- when only 53 EICs had been issued?</p>	<p style="text-align: right;">324</p> <p>1 and that not that many people have applied for EICs; is</p> <p>2 that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Is that surprising to you that demand for EICs</p> <p>5 has been what you would qualify as low?</p> <p>6 A. Does it surprise me that it's low?</p> <p>7 Q. Does it surprise DPS?</p> <p>8 A. Well, to some extent. I mean, we really</p> <p>9 didn't have a feel for how many were going to apply.</p> <p>10 Q. And I take it -- well, I shouldn't say it that</p> <p>11 way.</p> <p>12 Let me ask it this way. In your view, is</p> <p>13 the result of low applications for EICs a result of</p> <p>14 DPS' failure to engage in appropriate outreach?</p> <p>15 A. No.</p> <p>16 Q. In your view, is the low demand for EICs to</p> <p>17 date, again, low demand in your view, the result of</p> <p>18 DPS' failure to ameliorate the burdens of obtaining an</p> <p>19 EIC?</p> <p>20 A. No.</p> <p>21 Q. Okay. So in DPS' view, DPS has done</p> <p>22 everything right, yet demand for DPS applications has</p> <p>23 been low.</p> <p>24 Is that an accurate summary of DPS' view?</p> <p>25 A. Yes.</p>

JOE PETERS

4/30/2014

82 (Pages 325 to 328)

<p style="text-align: right;">325</p> <p>1 Q. Okay. If that's the case, would it be fair to</p> <p>2 expect that -- in terms of resource expenditures going</p> <p>3 forward, that DPS, as any government agency, is</p> <p>4 unlikely to continue devoting resources to something</p> <p>5 for which it has been perceived a lack of demand?</p> <p>6 A. Are you asking me if that would be accurate?</p> <p>7 Q. Yes.</p> <p>8 A. It would not be accurate. We're going to</p> <p>9 continue.</p> <p>10 Q. Okay. So despite the general rule that</p> <p>11 government resources should be directed to areas where</p> <p>12 there's actually demand, your testimony is that DPS</p> <p>13 will continue to spend resources in terms of outreach,</p> <p>14 mobile units, et cetera, despite the fact that, in your</p> <p>15 estimate -- despite the fact in your estimation there's</p> <p>16 little or no demand for EICs?</p> <p>17 MR. KEISTER: Objection to form. The</p> <p>18 question -- there's no foundation for a statement that</p> <p>19 that's the general -- general proposition of funds are</p> <p>20 not dedicated unless there's a need. I'm not restating</p> <p>21 that correctly.</p> <p>22 Q. (BY MR. DUNBAR) Well, in your experience in</p> <p>23 government, does government continue to spend its</p> <p>24 scarce resource on programs for which there is little</p> <p>25 demand?</p>	<p style="text-align: right;">327</p> <p>1 Q. Where -- where in S.B.14 does it tell you how</p> <p>2 much money or resources you have to expend on EICs?</p> <p>3 A. It does not. It just says we will do it.</p> <p>4 Q. So a future director could decide that the</p> <p>5 current resource expenditures are better spent</p> <p>6 elsewhere, then, correct?</p> <p>7 A. Not necessarily.</p> <p>8 Q. Why not?</p> <p>9 A. Well, because the legislature has mandated</p> <p>10 that we do -- that we issue the EICs.</p> <p>11 Q. And so they -- and so the legislature has</p> <p>12 mandated -- the legislature has mandated a particular</p> <p>13 level of customer service representatives or a</p> <p>14 particular level of mobile stations?</p> <p>15 A. No.</p> <p>16 Q. No? So those discretionary choices, at least,</p> <p>17 could be rolled back?</p> <p>18 A. Correct.</p> <p>19 MR. DUNBAR: No further questions.</p> <p>20 Oh, sorry. Oh, sorry.</p> <p>21 Q. (BY MR. DUNBAR) Just to finish up, I guess,</p> <p>22 the deposition across the board, are there any answers</p> <p>23 that you've given today that, upon reflection, you wish</p> <p>24 to change or correct for the record?</p> <p>25 A. Not other than what's already been addressed</p>
<p style="text-align: right;">326</p> <p>1 A. In some cases, yes.</p> <p>2 Q. And it's your testimony that EIC issuance,</p> <p>3 that the dollars that have been expended to date on</p> <p>4 outreach and mobile EICs will stay static or only</p> <p>5 continue to increase?</p> <p>6 A. That -- that could happen.</p> <p>7 Q. That could happen. I'm asking --</p> <p>8 A. The expenditures could increase within the</p> <p>9 limits of existing appropriated funds.</p> <p>10 Q. Right. And again, just to be clear on all of</p> <p>11 this, there's no statute or regulation that requires</p> <p>12 that result. It's simply your testimony that you, as</p> <p>13 the director of the driver's license division, would</p> <p>14 recommend that continue to be the policy going forward?</p> <p>15 A. Yes.</p> <p>16 Q. So it's within DPS' discretion?</p> <p>17 A. Yes.</p> <p>18 Q. A future Mr. Peters could reach the decision</p> <p>19 that, you know what, given the low demand for EIC</p> <p>20 applications, we're not going to continue to spend</p> <p>21 resources on EIC outreach; is that correct?</p> <p>22 A. Well, there's a legislative mandate that we</p> <p>23 issue these EICs. And until the law is changed, then I</p> <p>24 would expect that even a future assistant director</p> <p>25 would not be able to --</p>	<p style="text-align: right;">328</p> <p>1 Q. Okay. And for the -- any of the answers you</p> <p>2 gave that you couldn't recall an answer to, do you</p> <p>3 recall the answer to that now?</p> <p>4 A. I don't.</p> <p>5 Q. And for any of the documents that we asked</p> <p>6 were produced that you said you weren't sure, you're</p> <p>7 still continuing to be --</p> <p>8 A. I don't know what was produced.</p> <p>9 Q. And finally, I guess, anything that you wish</p> <p>10 to add to any of the answers you've given so that the</p> <p>11 record is clear in terms of us understanding your</p> <p>12 answer?</p> <p>13 A. No, sir.</p> <p>14 MR. FREEMAN: I believe we have no</p> <p>15 further questions. I just want to say on the record,</p> <p>16 however, that we have previously requested updates of</p> <p>17 all reports or information regarding EIC issuances and</p> <p>18 transactions that did not result in an EIC. Reid from</p> <p>19 your office informed us that no such reports had been</p> <p>20 created since the documents were produced back in</p> <p>21 February. It's directly contrary to the testimony that</p> <p>22 was provided by Mr. Peters, and I'm going to renew our</p> <p>23 request that we get all of those documents as soon as</p> <p>24 absolutely possible; particularly in light of the prior</p> <p>25 statement by Mr. Clay.</p>

JOE PETERS

4/30/2014

83 (Pages 329 to 332)

329	1 MR. KEISTER: We'll reserve our questions 2 until time of trial. 3 THE REPORTER: Off the record. 4 (Proceedings concluded at 4:52 p.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
330	1 WITNESS CORRECTIONS AND SIGNATURE 2 Please indicate changes on this sheet of paper, 3 giving the change, page number, line number, and reason 4 for the change. Please sign each page of changes. 5 PAGE/LINE CORRECTION REASON FOR CHANGE 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____ JOE PETERS
331	1 SIGNATURE OF WITNESS 2 3 I, JOE PETERS, solemnly swear or affirm under 4 the pains and penalties of perjury that the foregoing 5 pages contain a true and correct transcript of the 6 testimony given by me at the time and place stated, 7 with the corrections, if any, and the reasons therefor 8 noted on the foregoing correction pages(s). 9 10 11 12 13 14 Job No. 4-AUSTIN-161020 KS 15 16 17 18 19 20 21 22 23 24 25
332	1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 CORPUS CHRISTI DIVISION 4 MARC VEASEY, et al.,) 5 Plaintiffs,) 6) 7 v.) CIVIL ACTION NUMBER 8) 2:13-cv-193(NGR) 9 RICK PERRY, et al.,) 10 Defendants.) 11 ***** 12 REPORTER'S CERTIFICATE 13 THE STATE OF TEXAS: 14 COUNTY OF TRAVIS: 15 16 I, Kim Seibert, a Certified Shorthand Reporter in 17 and for the State of Texas, hereby certify to the 18 following: 19 That the witness, JOE PETERS, was duly sworn by the 20 officer and that the transcript of the oral deposition 21 is a true record of the testimony given by the witness; 22 That the deposition transcript was submitted on 23 _____, 2014, to the witness, or to the 24 attorney for the witness, for examination, signature, 25 and return to U.S. Legal Support, Inc., by _____, 2014; That the amount of time used at the deposition was 6 hrs and 52 mins.

JOE PETERS

4/30/2014

84 (Page 333)

333

1 I further certify that I am neither counsel for,
2 related to, nor employed by any of the parties or
3 attorneys in the action in which this proceeding was
4 taken, and further that I am not financially or
5 otherwise interested in the outcome of the action.

6 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the
7 _____ day of _____, 2014.



A handwritten signature in cursive script that reads "Kim Seibert".

12 Kim Seibert, Texas CSR 4589
13 Expiration Date: 12-31-2014
14 U.S. Legal Support, Inc.
15 Austin Centre
16 701 Brazos, Suite 380
17 Austin, Texas 78701
18 Firm Registration 344
19 Expiration Date 12-31-2014

20 Job No. 4-AUSTIN-161020 KS
21
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24
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JOE PETERS

4/30/2014

1

A	200:23	124:5 126:21	African-American
ability 45:6 75:13	accidents 24:16	185:20 202:16	95:5 150:18,20
96:10 147:2,8	accomplish 33:8,8,13	234:10,18 235:11	151:6,19 159:20
203:21 210:22	193:14 230:19	304:13 306:2 317:9	afternoon 147:19,20
able 9:18 12:1,1,18	accounting 170:1	addressed 327:25	189:9
18:6 19:21 34:20	accounts 278:24	addresses 37:19	age 28:4 74:1 149:24
41:11 99:6 102:24	accuracy 122:24	70:13 82:12 234:23	310:25
170:4 173:21	293:21	307:20 310:11	agencies 82:25 83:3
184:18 193:12	accurate 11:17 78:6	administer 70:23	83:12 116:14
242:1 249:22	92:9 100:9 216:5	72:6,15	133:22 159:25
260:10 261:5	220:15 242:5 269:8	administration 191:5	182:3,15,25 183:22
291:12 292:16	272:7 293:1 316:24	192:20	agency 82:2 108:20
296:25 303:3	324:24 325:6,8	administrative 5:16	116:8 136:15
315:12 326:25	accurately 11:22	6:5 31:21,22 32:6	159:24 160:3 182:7
above-styled 1:15	12:19,25	43:12,14 63:13 66:7	182:17,24 183:4,5,8
absence 69:14 70:3	accustomed 42:19	76:22 77:12 91:13	208:20 209:25
271:15	43:23 44:9 291:18	118:25 119:17,23	210:11 217:11
absentee 26:19	291:20	120:2,16 145:11	218:14 228:14
absolutely 65:11 78:2	achieve 228:12	Administrator 220:6	229:7 325:3
155:13 183:9 233:3	acre 24:6,8	adopted 58:11,23	agents 191:3
312:21 328:24	acres 23:20 24:6	101:15 244:5	ago 24:18 56:14
academy 15:10,11	act 45:12 82:21,24	adoption 34:2	154:19 156:8
accept 261:1 279:7	83:3,12,21 119:2,18	advance 86:20,23	179:19 301:18
279:11	122:19,21 164:7,12	87:18 88:3 189:11	302:5 311:15,24
acceptable 40:15,19	action 1:4 237:11	advertise 280:24	312:1 317:4
54:7 253:18,20	332:4 333:3,5	294:3	agree 76:24 100:12
279:20 280:5 307:4	actions 24:15	advertised 283:9,15	100:22 193:10
316:20 317:25	active 112:12 113:5	advised 32:16 133:2	195:17 207:12
accepted 71:11 98:22	actual 27:8 38:17	242:16 300:25	214:2 215:9 221:19
100:4 253:14,15	76:1 169:17 284:12	affect 209:20 244:5	264:15 275:25
254:3 277:12	311:7	affidavit 6:2 35:17	290:7 315:4
316:20 322:15	add 11:9 322:19	76:10 97:24 98:8	agreement 80:19,25
accepting 59:8	328:10	103:15 104:17,23	82:1 92:2,8,14,23
access 96:10,23,25	added 152:17 169:25	256:16 257:3	166:7,11,20 170:22
160:4,10 175:23	addition 103:22	259:10 260:13,16	171:5,6,13 179:2
176:1 182:4,10,19	157:21 173:3,15	297:24	181:8,9
183:5,12,13,13,14	244:7 267:6 275:18	affirm 260:2 331:3	agreements 83:18
183:17,24 184:19	287:8	affirmation 71:13	agrees 171:24 213:21
193:25 194:4,6,12	additional 46:8,20	affirmations 70:24	ahead 18:10 47:10
194:19,21,22 195:6	49:13 53:2 85:3	72:6,10	106:10 152:1,2
195:11,18,21,25	103:16 172:17	affirmatively 237:22	204:4,5 224:8
196:2 199:20,25	229:16 231:7,14	afford 196:20 285:3	286:11,12 302:13
201:20 222:8	257:10 275:16,17	297:18,20 298:19	317:14
accessed 315:19	address 27:22 74:9	298:21	aid 3:11 53:10 246:7
accessible 176:4	74:11 80:21 123:15	afoot 155:25	301:12

JOE PETERS

4/30/2014

2

air 207:6,8 airplane 154:4 al 1:3,5 332:3,5 alcoholic 12:10 algorithm 113:10 Ali 3:6 8:20,20 alien 47:6 allayed 216:14 alleviate 231:2 allocated 167:17 285:15 allow 8:12,13 75:4 96:24 99:24 104:16 110:24 230:19 allowed 96:5 97:7 98:9 100:13,23 101:9 112:1 166:12 230:20 261:22 266:7,14 295:21 allowing 143:4 295:25 allows 85:2 91:8,12 91:13 98:17 alternative 75:18,21 98:22 ameliorate 324:18 amend 65:10 America 2:3 8:11 American 278:20 279:8 Americas 2:16 amount 13:15 54:1,8 91:5 95:24 169:3,7 174:13 180:1,8 332:22 Amy 2:20 8:24 amy.rudd@decher... 2:23 analyses 130:20 131:5,7,8,10 138:10 138:20 139:9,10 141:22 179:22,24 analysis 117:23,24 123:6 130:9,12 131:1 132:22	133:21 134:5,8,10 134:17 135:9,12 139:2 140:13 141:8 141:17 142:2,10,14 143:4,15 168:16 169:18 170:11 205:19 208:1,22,24 209:3,10 210:21,24 210:25 310:15,20 311:11,19,20 323:18 analyst 168:3,7 analyze 117:15,18 200:3 analyzed 192:6 193:20 and/or 1:20 159:13 235:11 Ann 110:6,7 annual 230:14,14 244:9 annually 126:2 answer 9:15,22 10:1 10:2 11:1,2,16,22 12:7,18,24 17:12,13 19:21 22:15 23:2 29:12,13 30:18,22 40:23 47:14 53:22 54:2,9 64:10 70:4 72:16 73:14 74:6 75:7 79:21 101:3 104:1 105:25 106:1 106:8,9 112:5,6 113:1 116:24 119:6 119:9 125:24 128:5 130:5 131:17 132:1 132:2,3,5 133:19,25 139:16 141:5 142:25 143:18 147:24 156:21 157:14 162:20 199:19 203:2 226:19 243:14 261:24,25 262:17 263:23 266:17	268:24 282:8,11 288:5 293:20,23 306:13 314:13,18 319:1 320:14 328:2 328:3,12 answered 139:5 141:4 answering 9:17 10:1 11:20 128:14 answers 10:11 12:15 106:9 258:5 327:22 328:1,10 anticipation 246:18 anybody 158:4 167:23 174:5 239:22 288:7 anymore 216:24 anyway 58:17 167:13 apart 178:4 apologies 189:11 apologize 323:15 apparatus 218:24 apparently 214:15 appeal 55:10 appear 28:21 42:5 110:5 269:18 Appearances 5:2 appeared 60:24 appears 18:24 32:5 99:20 110:6 145:10 186:12,17 198:13 211:20 220:12 268:18 275:25 278:19 301:19 appendix 275:8 277:6,7,10 278:15 279:2,21 applicable 43:25 applicant 30:6,12 34:12 35:7 44:2 51:12 53:13 54:22 56:4 58:15 62:21,23 62:24 63:8,21 65:15 68:16,23,25 69:3,19 76:7 144:2 145:19	146:3,6 162:10 205:24,25 285:14 307:1 311:1 313:3 applicants 44:6,7,8 67:16 91:10,19 168:23 216:18 240:24 262:15,19 263:12 278:4 290:24 291:8,12,16 310:23,24 applicant's 54:12 312:10 313:24 application 7:15 34:23 35:17 38:8,20 41:7 43:10 47:21,23 49:1 54:13,15 55:9 56:1 57:7 58:16,21 59:9,16,16,22 62:24 62:25 63:16,19,20 64:13 68:11,13,24 69:4 72:19 73:7,8 73:10 74:24 76:1 78:8 92:3 151:16 153:14,16 161:11 162:8,9 182:21,21 183:4,20,21,25 229:23,24 230:1 285:13 298:9 302:15,21 313:22 322:9,15 applications 48:10 59:8 70:20 71:11 75:25 91:15 193:19 211:3 216:17 324:13,22 326:20 applied 48:15 129:3 129:18 145:23 154:8,10 160:22 216:19,19 311:16 324:1 applies 47:12 159:16 apply 34:18,20,25 35:4 38:9,10,11,16 38:24 45:2 99:8 101:22 145:24
--	--	---	--

JOE PETERS

4/30/2014

3

146:11 147:7 162:6 162:15,17,18 165:4 201:24 202:21 203:22,22,25 204:8 204:15 252:5,11,22 258:2 302:7,13 324:9 applying 34:15 38:15 43:21 98:23 203:8 253:14,15,19,20 254:19 appraisal 149:12 175:18 appreciate 78:10 319:5 appreciated 186:6 apprised 281:3 approach 213:19 appropriate 274:14 285:11,12 324:14 appropriated 231:21 326:9 appropriation 217:6 227:14 approval 183:19 approve 33:14,22 34:1 239:20 approved 94:6 182:23 approximately 92:13 93:17 April 1:11,16 arbitrarily 63:18 207:21 arbitrary 207:5 area 67:18 150:25 173:2 191:20 208:12 areas 33:3 67:20,23 147:21 182:11 192:11 310:22 325:11 argue 219:3 argumentative 115:19 116:5,22	318:23 arises 125:10 Army 15:12,14 arranged 24:3 arrests 165:15 arrive 200:5 293:24 arrived 284:3,20,22 arrives 104:11 article 5:18 60:19,24 61:1,6,25 articulate 9:19 asked 16:9 23:24 25:11 46:20 86:10 86:24 87:1 106:14 108:6,7,10,13 139:4 141:4 151:17 155:17 163:9 174:15 177:7 229:17,18 323:15 328:5 asking 9:15 62:13 79:22,24 89:14 99:11 114:24 130:3 131:1 133:18 138:16 150:14 201:25 222:7 271:23 315:14 325:6 326:7 asks 159:1 160:18,19 183:14 aspect 184:9 assessed 223:1 assessment 215:14 assign 87:14 assigned 15:14,22 67:15 187:23 198:16 assignment 263:15 assignments 224:20 assist 12:2 23:25 93:4 93:6 167:5 170:7 177:2 assistance 16:6 32:19 108:14,19 201:22 202:2 220:13	229:18 280:22 assistant 4:1 13:6 16:11 21:12 139:25 176:20 188:2 211:23 245:8 326:24 assisting 167:9 associated 71:18 208:1,2 215:12 Association 16:4 218:4 assume 64:9 98:24 99:2 122:12 142:1 188:9 189:16 190:19 290:10 302:24 307:5 311:20 314:20 assumed 218:14 assumes 111:2 assuming 37:5 120:8 120:11 125:16 213:21 215:11 assumption 180:4 291:18 assurance 47:16,18 48:16 55:6 78:8 181:19 240:22 262:2 293:20 322:16 assure 66:1 assured 255:13 as-needed 244:15 Atascosa 15:25 23:20 attached 1:21 269:4 attaches 246:7 attachment 197:5,7 198:1,3,11,12,13 attained 245:13 attempt 46:10 53:4 102:22 119:2,14 133:14 210:9 attempted 280:17 attempting 53:3 61:9 attempts 283:1 attend 247:15 249:5	attended 247:20 248:19 273:16 274:18,20 276:3 attending 276:25 attention 219:12 246:12 252:4 301:16 attest 35:5 attesting 97:24 attorney 3:17 4:1 10:24 11:3 17:9 332:19 attorneys 8:13 17:11 333:3 attorney/client 133:24,25 134:13 142:24 143:17 197:11,22,22 213:10 226:18 audit 46:16 48:5,9 99:10 296:12 297:5 297:7 audited 296:17 audits 299:14,22,24 August 139:11 140:12 141:9,18 142:9 143:3 293:14 Austin 1:19 2:22 3:12 3:18,22 4:6,7 15:20 15:23,24 184:6 241:5 245:11 299:20 333:13,14 authority 229:1 312:15 314:2 authorization 71:17 86:11,13,19 authorize 80:16 81:5 81:8 95:7 authorized 70:19,23 71:12,25 72:1 80:23 82:9,18 84:3 86:15 86:17 95:11 287:1 authorizes 80:18 82:5,16,24 83:17,21 84:9 85:19
---	--	---	---

JOE PETERS

4/30/2014

4

authorizing 67:25 81:7 automatic 62:22 automatically 62:20 62:25 63:23 125:9 159:2 163:18 176:4 180:22 automobile 195:22 availability 173:22 196:18 235:14 281:3 available 7:9 67:18 72:14 85:22 93:16 93:23 94:2,11 102:13 116:9,19 143:24 144:23 145:4 149:24 157:7 157:8 195:15 198:23,24 199:1,2,5 199:10 200:10,12 201:14,20,22 202:18 218:16 284:9 285:25 availed 202:20 Avenue 2:6,16 3:7 average 281:17 avoid 102:5 189:13 aware 35:21 36:7 46:19,24 51:7 52:12 52:25 57:13,18 63:3 63:4,5 65:5 66:17 72:12 75:23 77:7,11 77:15 85:20 86:6,11 86:23 89:3,6,24 90:1,8 91:2,3,4,16 91:21,23 92:1 94:7 94:17,20,25 95:6 100:2 107:8,10,15 107:23,24 108:23 109:4 110:23 112:11 113:5,8,14 113:17,23 114:15 114:18 115:4,7,13 115:21,23 116:6,7 116:15 117:8,13	118:20,24 119:19 119:21 120:8 121:7 121:13,21 122:6,8 122:10,11 123:4 125:4 128:16 129:8 132:6,13,22 133:1,4 134:2 135:2,6,8,10 135:11,15 137:1,9 137:13 140:3,10,23 141:6,10,11,21 142:3,8 143:7,9,13 143:20 144:9 145:6 146:19 147:10 157:4,6 158:1,8 159:12,15 160:3,18 164:15 174:2,20,21 175:20,21 176:9 178:3 181:24 192:8 194:6 200:6 202:22 203:1 205:6 208:21 210:12,19 228:16 232:15 235:25 238:4 255:19 262:8 264:3 265:10 267:18 270:8 272:3 272:12 275:19 280:13,14,15,19 282:16,18,25 283:4 287:18 294:5,8 296:25 301:4,6 307:16,19 310:10 310:13,18 311:12 311:14 312:22 319:20 323:23 awareness 280:17 awhile 307:8 a.m 1:16 77:21,21 A1 306:22 A2 312:10 <hr/> <p style="text-align: center;">B</p> <hr/> b 1:8 6:6 36:10 145:12 183:5 306:1 Bachelor 14:24 back 15:19,23,24	16:9 24:7 28:11 33:25 39:11,17 42:23 61:5 77:22,23 91:1 100:20 103:2 103:17 106:23 118:8 135:23 147:16 148:4 150:15 153:11 192:9 197:19,23 212:18 213:5,11 214:11,12 231:5 238:11,17,18 260:17 278:11,13 295:4,7 297:11 304:3 306:7 312:7 321:23 327:17 328:20 background 14:23 15:5 157:18 165:5,8 165:10,22 217:21 222:11 226:21 303:11,24 304:1 bad 127:8,15 128:17 ballot 36:19,25 Ballpark 169:6 bank 24:11 banker 23:18 24:2,5 24:9,12 25:2,15 banner 286:23 300:19 banners 286:9,14,15 bars 36:17,23 based 29:9 44:22 55:7 57:4 62:13 80:5 123:14 165:1 182:10 183:19,24 201:4 206:5 216:5 216:13 226:2 228:23 229:4 232:8 233:18 273:24 290:17 bases 229:4 302:14 basic 9:13 192:17 218:24 224:4 basically 26:12 43:5	172:8 275:3 basis 42:11 62:12 68:20 79:15,16,23 80:1,2,5,7,10,23 87:14 88:8 218:1 230:14 243:21 244:9,15 262:25 263:2 301:1 312:15 312:18,23 321:13 began 135:1,4,12 169:23 245:25 266:15 296:16 begun 66:10,11 behalf 16:18,22 78:25 80:9 99:11 119:25 174:5 194:11 268:14 belabor 306:14 belief 58:22 62:19 believe 17:25 27:25 30:21,21 32:10 41:20 47:13 58:12 62:17 74:15 76:17 78:4 79:22 80:4 82:22 86:3 92:9,15 105:1,10,13 109:23 112:14 121:16 124:24 134:24 139:24 141:14 153:22 162:7 169:24 173:6 189:2 195:4 208:16 210:6 210:15 211:4,6 213:9 214:14 217:4 218:6 220:3 221:5 228:3 241:7 247:7 248:16 253:22 262:11 264:9 265:21 267:5 269:8 272:10 279:2 283:19 286:13 291:7 292:4 301:17 309:11 310:25 311:4 312:20 313:21 314:24
--	--	--	---

JOE PETERS

4/30/2014

5

<p>323:8 328:14 believed 80:23 92:25 293:2 Bell 21:9,21,22,24 22:1 Bend 15:21 benefit 49:8,14 best 29:7 79:7,16 213:16 222:3 229:6 242:3 262:2 282:10 292:13 293:22 320:13 bet 318:25 better 47:14 181:4 289:22 290:4 293:2 306:18 327:5 Bexar 88:21,23,25 89:2,12 beyond 46:22 72:25 86:11,13,14 130:18 bill 5:15 26:7,10,22 26:24 27:9 28:22,23 108:2,7,8 109:6 169:8 180:1 196:4 208:22,24 209:3,10 bills 117:12 118:3,12 118:19,23 Birch 219:25 220:10 birth 27:24 41:5,11 41:13 47:25 50:16 50:22 51:16 96:6,8 96:11 97:2,8,10,25 98:19,22 99:7,25 100:5,14,15,24,25 101:9,11,19,19,20 102:1,15,23 103:1,9 103:16,19 104:11 104:18,18,23 126:20 149:25 151:6,14,15 179:6,7 179:11 280:1,4,12 280:18 307:24 312:10,16 313:20 314:7,21 316:14 318:10</p>	<p>bit 189:12 197:9 208:9,12 233:24 238:24 243:1 280:22 301:18 board 168:15 232:14 327:22 boat 304:12 Bob 274:12 Bodisch 6:13 211:21 214:15 216:2 320:24,25 Bodisch's 215:15 body 34:4 born 98:11 184:24 314:9,12,17,19 bottom 127:9 212:7 213:7 220:5 252:20 252:21 255:22 263:17 272:6 bottom-right 250:2 Boulevard 3:22 bound 262:22 bounds 201:9 box 3:17 59:17,23 151:17 199:16,23 302:25 boy 36:10 BRANCHES 2:14 Brazil 2:10,10 5:5 8:16,16 17:20 19:7 19:10 23:1,5 147:18 153:25 154:2,5,6 158:13 163:4,5 187:13,17 214:5 Brazos 4:7 333:14 break 10:16,17 77:17 77:19 135:20 149:24 150:18,20 315:25 316:8 BRENNAN 2:16 brick-and-mortar 189:25 190:4 brief 68:23 193:5 313:17 briefly 316:9</p>	<p>bright 207:14 bring 40:11 102:23 103:19 106:10 252:24 304:10 305:2,7,12,24 307:24 317:6,8,20 bringing 96:6 broad 152:18 314:1 broader 222:25,25 broken 150:5 brother 310:2 budget 166:25 167:3 167:4,9,12,21,24 168:15 172:1,6 185:3,4 217:6 232:4 232:10,14 282:19 budgetary 174:16 budgeted 282:14,17 building 67:13 183:12,15,17 286:16,20,20 287:1 300:18,20 bullet 252:8,24 254:13 270:10 bunch 11:25 burden 43:13,14,16 43:20 53:2 100:15 100:25 101:10 burdens 207:9 208:1 324:18 bus 199:7,9 200:9 business 13:12,13 22:11,12 32:22 33:5 33:9 43:2 183:16 184:6 289:22 290:4 290:19,21 291:3,5,9 291:15,19,19,20,21 291:22,23 292:18 293:2 busy 214:25 butt 90:17 buy 170:14 216:22 225:22 bypass 59:18,21,24</p>	<p>C c 2:1 34:9,10 53:16 306:1 calculate 168:21 calculation 6:8 186:12 calculator 201:6 call 36:2 200:15 202:7 234:16 235:21,21,22 240:7 240:16,24,24 241:11 244:12 283:10,10 309:18 called 16:9 24:10 181:8 240:16 246:7 267:1 274:16 calling 190:2 calls 30:16 61:16 62:11 73:12,12 74:5 79:11,19 83:6 89:21 90:14 97:11,17 98:13 100:16 101:1 101:13,24 102:9 103:12,21 104:25 111:1,21 112:20 114:4,14 116:5 128:25 129:6,25 132:10,17 135:17 142:5 146:12 195:2 201:5 235:12 240:20 283:5 294:16 318:22 campaign 280:24 281:2 293:18 294:4 campaigns 293:25 cancel 77:4 cancelled 256:1 capability 63:16 64:5 296:9 capacity 16:19 25:22 218:11 309:5 capitol 182:9,11 183:10,12 capturing 185:17 car 195:22 203:20</p>
--	---	--	--

JOE PETERS

4/30/2014

6

204:14,18,19 card 13:10,11 27:8 27:15,17,20,22,24 28:1,12 34:14,17 35:3,9 37:5,7,18 39:1 41:3 42:10,12 42:20,22 43:10,25 44:17 47:20 48:19 50:2 52:15,23 53:5 53:20,24,25 56:9,17 56:21 59:16 62:23 63:20 67:16 72:24 74:11 86:18 125:16 130:23 133:16 138:13 139:19 144:10 145:25 146:18 147:4,9 155:25 160:5,21 161:15,22,23,25 162:5,8,14,23 164:11 168:19 169:13 170:20 172:6 179:25,25 180:8 181:18 182:13,17,19 183:13 193:18 201:17 202:14 203:7 254:10 256:2 257:1,17 258:15,20 259:3,22 260:3,5 261:10,12,13,15 263:19 278:8,21,22 279:8,12 296:4 297:17,18,23,24 298:1,20 302:6 308:2 314:23 320:11 cards 37:21 43:1 48:2 48:6 51:6 58:10 80:22 124:10 140:15 144:23 146:21 155:12 160:2,4,10,11 181:13,16 182:4,10 183:5 210:1 218:22	237:20 249:14 283:11 Carnegie 3:2 carried 154:1 carrier 146:18 carries 221:20 222:17 carry 37:25 52:24 130:23 138:13 145:3 193:11 210:23 223:3 228:15 229:8,12 case 51:15,24 64:4 82:2 125:10 173:19 193:22 203:17 204:10 262:25 286:18 310:16 325:1 cases 25:6 45:10 48:14,15,23 179:15 187:25 188:1,3 240:21 299:24 311:8 322:14 326:1 cast 36:19,25 catalog 292:6 categories 28:12 41:24 149:23 150:1 152:17 154:20 category 160:13,16 279:15 Caucasian 150:19 151:18 152:15 159:20 cause 1:15 286:9 314:11 318:8 caution 142:22 center 2:16 3:2 22:12 60:6,13 177:21 194:1 199:8,10 200:17 205:19,22 235:21 240:7,17 241:12 283:10 centers 67:14 177:8 177:10,17 178:11 193:22 194:10,19	196:4 205:22 287:22 central 205:4 321:19 centrally 241:2 321:12 Centre 4:6 333:13 certain 13:15 18:12 30:19 31:4,12 36:18 46:7,12 54:8 79:4 91:9 98:18 99:15 125:7 127:15 156:1 173:16 177:16 180:23 182:11 183:9 194:15 202:5 245:14 312:21 certainly 204:7 213:22 231:13 239:12 315:10 certificate 5:9 6:19 6:22 7:3 27:4,7,11 27:17 28:7 29:9,16 29:17 30:7 32:9 34:15,19,21 37:9 41:6 42:14 43:3 50:16,22 54:13,21 54:23 58:3 69:21 75:18 76:9 96:6 97:2,9,10,25 98:10 98:22 99:7 100:1,5 100:14,15,24,25 101:9,11,19,20,20 102:1,16,23 103:1,9 103:20 104:12,18 104:19,23 151:15 179:7,7,11 246:8,8 249:17 250:4 251:2 251:15 252:6,22 254:9 255:22,23 256:14 258:6 263:18,21 267:1 273:4 275:10,22 276:19 280:12,18 307:24 313:4 316:14 332:8 certificates 7:6,9,14	51:16 96:11 262:15 277:19 285:24 293:10 321:3 certification 41:11 75:20 certified 41:5,10,12 96:6 130:17 179:7 316:19 332:11 certifies 248:2 certify 70:19 332:12 333:1 certifying 71:21 98:10 cetera 165:16 268:20 306:23 325:14 chain 221:4 challenged 23:19 202:12 chance 42:24 43:15 90:17 chances 11:12 change 41:14 51:16 65:18,20 74:2 76:4 154:21 174:8 196:13 202:17 254:22 255:10 316:16,22 317:7 327:24 330:2,3,4 changed 55:22 59:1,3 152:16 254:24 255:2 268:1,3,4,4 326:23 changes 59:15 80:21 152:19 244:1 330:2 330:3 Chapter 5:17 6:6 32:6 82:9,12,15,18 145:11 characterization 79:20 215:10 characterize 215:13 244:16 characters 127:8,15 128:17 308:5 309:6 charge 71:25 78:14
--	--	--	---

JOE PETERS

4/30/2014

7

151:3 Charles 34:9,10 123:11,12,13 127:10 chart 199:24 200:3,8 201:4,21 203:20 206:24 207:13,25 chat 240:11 check 38:2 47:11 48:4,6 59:17,23 60:3,5,8,12 61:3 62:1,10,21,22 63:1 63:11,17,18,22 64:5 67:2 78:5 151:17 157:18 160:23 165:5,6,7,8,10,11 165:13,14,23 188:11 299:23 checking 200:19 303:10,24 304:1 checks 47:1,4 49:4 60:15 61:8,14,14 63:15 Cheryl 14:20 chief 137:22,24 138:1 211:23 320:24 CHL 157:2,4,8,15,25 158:1,5,10 159:8,14 160:15,18 161:12 164:14 165:19,22 165:23 188:9,10 193:18 choice 57:3,4 233:5,7 233:15,20 choices 327:16 choose 232:22 chooses 281:14 chose 207:12 chosen 207:3,21 217:23 Chris 137:25 138:1 140:22 151:4 320:19 CHRISTI 1:2 332:2 church 173:16	circles 67:4 circulation 146:21 circumstance 204:13 232:18 298:2 299:1 308:3 circumstances 13:22 13:23 69:13 70:1,6 76:25 144:1 145:1 153:2 202:5,6,14 204:6,9,17 255:25 262:20,21 cite 312:15 cities 198:14 citing 312:23 citizen 47:8 144:7,11 144:13 146:7,18 156:4 157:5 citizens 143:24 144:24 145:5 146:11,22 155:1 citizenship 45:17 46:1,8,21 47:2,25 51:15,17,25 52:3,8 52:9,11,14,17 53:1 78:6 97:24 101:7 145:21 146:4 154:17 156:17 253:23 301:25 citizen's 144:20 civil 1:4,20 2:5 23:16 24:11,15 25:12,14 332:4 clarification 25:13 78:1,9 191:7 clarifications 224:4 clarify 237:13 clarity 222:16 Clark 2:15 5:6 8:22 8:22 238:13,16 245:24 246:12 247:14 248:24 249:3,4 250:25 268:13 273:3 275:21 276:18 277:16,17 285:23	289:10 292:23 293:1,8 294:19,23 295:1,5 301:8 302:17 classify 281:1 claw 212:18 clawback 212:8,23 213:22 clawed 197:23 213:11 Clay 328:25 clear 9:14 10:13 14:9 120:13 133:11 161:18 177:22 189:23 213:15 224:9 232:22 234:4 234:4,22 323:16 326:10 328:11 clearly 224:12 Clerk 6:22 275:22 276:10 close 36:24 215:25 closely 218:14 closer 24:7 39:11 clue 155:9 281:19 code 5:16 6:5 29:18 29:21 30:10 31:20 32:6 63:13 82:10,19 145:11 310:23 312:20 313:2 321:8 coffee 10:21 Cohen 7:11 289:12 289:19 collaboration 32:17 228:11 collaborative 32:24 colleague 9:8 collect 254:19 255:5 Collecting 254:14 collection 126:6 collective 225:19 226:4,6 color 205:15,16 colorful 207:14 column 199:2,11	200:19 combat 63:10 combination 190:9 191:24 combined 155:14 come 16:9 39:11,17 44:25 68:7 75:2 95:18 103:2 149:2 156:14,15,16,23 167:12 170:18 181:18 182:16 187:2 193:15,17 231:20 241:6,8,9,10 241:11,12,14 259:24 285:6 287:25 298:17 314:3 317:2 320:13 322:6 comes 39:3 56:12 124:14 148:12 149:5 167:12,14,20 224:9 235:21 248:1 285:14 302:11 316:2 321:23 322:16 comfortable 314:10 coming 204:11 216:8 285:1 288:3 310:23 commanders 13:24 comment 63:3 66:8 237:17,19 commission 34:1,3 71:8 192:22 193:1 228:22 commissioner 88:21 89:10 91:6 commissioner's 174:19 commitments 229:11 common 62:18 153:25 222:14 309:2,3 communicate 13:19 13:23 14:13 communicated
---	--	---	--

JOE PETERS

4/30/2014

8

255:14 communication 13:16 communications 13:25 14:12 61:23 86:1,2 87:23 133:25 239:19,23 240:12 240:13 282:8,11,19 320:22 communities 86:7 87:21 community 23:22 89:5 90:8,11,15 172:23 176:5 237:25 238:1 287:22 288:7 companies 281:20 compare 57:15 132:14 279:19 compared 53:21 comparison 113:10 competency 313:25 314:15 complain 95:20 235:12 complained 95:16 203:5 complaining 211:8 237:3 complaint 215:10,13 234:13 235:14,23 235:23 236:24 237:8,23 242:18 complaints 88:21 89:3,25 90:2,9,21 234:1,23 235:3,16 236:1,3,8,15,19 237:11,12 241:8,9 241:14,20,23 242:2 242:7,11,14,15,17 242:20 complete 10:11 11:17 19:21 32:7 128:22 153:7 164:22 166:10 182:20	completed 113:22 114:10 122:5,15,16 141:1 267:24 completely 12:25 153:23 164:19 completing 270:17 completion 270:11 270:15,19 compliance 13:12 164:21,22 165:1,2 300:7,23 compliant 45:12 164:19 complies 239:3 251:23 compliment 234:14 comply 164:7,12 174:16 183:1,2 222:4 complying 307:13 compound 92:10 93:25 101:23 102:19 computer 128:9,14 131:25 computerized 47:1,4 47:11 49:3 78:5 concealed 130:24 138:14 139:17 145:4 149:1 155:4 155:10,18,20 concentrated 191:16 191:18 concentration 192:12 195:5 concern 23:23 58:14 195:7 215:18 concerned 216:2 260:24 290:22,23 concerning 57:11 88:22 95:24 106:2 122:15 320:23 concerns 216:11 234:1 concluded 329:4	conclusion 30:17 73:12 83:7 97:18 146:13 concrete 231:10 conduct 81:1 110:25 117:24 120:18 130:11 133:14 134:5,8 177:1 183:16 244:14 299:19,19,20 conducted 47:11 114:1,9,17,19 117:14,18,22 122:13 130:9 131:7 132:7,8,19,22 133:3 133:21 138:14,21 139:9,10 142:2,14 143:4 265:23 272:22 299:15 conducting 129:5 143:14 conducts 299:17 CONFERENCE 2:14 confident 59:6,12 confused 120:13 310:1 confusing 79:12 214:7 225:1 confusion 44:1 114:4 120:7 connect 97:1 connecting 96:6 connection 35:14 96:20 97:15 200:3 205:18,21 207:24 215:18 223:21 231:7 237:5 connectively 36:1 connectivity 35:25 84:25 96:22 connotation 221:20 222:17,24 223:4 consequences 249:6 249:11 265:12	consider 96:4 97:22 201:16 204:12 262:24 291:11 considerably 170:13 consideration 105:4 106:14 107:1,4,12 108:1 109:1 111:8 114:21 117:11 120:22 137:11 194:5 196:1 207:8 291:25 320:7 considered 200:8,17 250:15 263:2 consist 244:25 282:5 consistent 315:1 consistently 296:17 constant 231:3 constantly 274:1 constitute 270:16 constituted 270:17 constraint 203:22 constraints 215:19 217:11 construction 205:23 consultation 33:10 contact 88:2 90:6,7 187:17,20 208:23 234:17 240:15 283:20 321:1 contacted 187:25 188:2,4 contacts 63:25 269:1 contain 331:5 contained 179:23 contains 27:10 contend 197:21 context 191:9 197:8 contexts 323:25 continue 59:22 306:25 325:4,9,13 325:23 326:5,14,20 continuing 328:7 Continuity 42:15 contract 5:20 81:21 81:25 82:24 83:3
---	--	--	---

JOE PETERS

4/30/2014

9

contribute 108:13 109:10,12 139:1 140:13 contributed 178:15 control 260:25 303:4 controlling 87:4 convenience 218:24 264:23 convenient 290:22 291:4,7,12,16 292:1 convention 307:6 309:15 convictions 165:16 convince 56:5 cooperation 5:20 81:20,25 82:21,23 83:2,12,17,21 181:9 coordinate 155:24 copied 110:8 212:5 214:16 copies 20:9 copy 16:24 28:19,21 32:5 35:3 37:12 41:5,10,12 81:20 98:21 112:13 115:2 129:4 145:10 179:7 213:17 core 217:14 232:5 233:6 corner 250:2 CORPUS 1:2 332:2 correct 11:18 20:14 24:23,24 28:5 29:24 30:11 34:6 35:10 36:20 37:1 38:5,20 38:24 39:9,10,12,17 40:3,4,6,8 41:25 42:1 43:22 44:4,10 44:10,14 45:7 48:7 49:1,6,7,7,25 50:6 52:5 53:5 54:5,6 61:11 69:18,23 71:13 73:10 74:11 78:15,18,22 79:1,5 79:6,10 80:11 82:8	82:12,14,19,23 83:2 83:11,16,19,20 84:2 84:4,5,7 85:3,5,14 88:20,24 89:8,18 92:18 93:21 95:12 95:15 97:4,7,15,20 98:8,16 99:3 100:1 101:12,22 102:8,13 102:17,24,25 103:3 103:5,9 104:14,19 104:24 105:11,16 106:3 107:2,16 111:5,8,11,13,17 114:2,11 119:24 120:3,4 122:1 123:13 125:20 126:7,8,21,25 127:3 127:4 128:21 129:17,19,22 130:13 131:6 134:19 136:1,15,16 136:20 138:9,17,20 139:2,6 144:21,22 145:18 146:2,5,11 146:24 148:11,13 149:5 153:11,12 156:5,15 159:7,10 159:25 161:19 164:3,4 166:14,17 167:19,22 171:17 178:21 179:22 181:12,14 182:14 183:23 185:3 188:20 190:25 191:15 192:2 193:2 194:13 199:11,18 200:1,2 203:16 206:22 207:1,2,18 207:19,22 209:2,10 210:18 211:9,10,22 211:24 212:2,3 214:17 215:20 217:7,8,12,21,22,25 218:9 219:25 221:2 221:10 222:8,19	224:6 225:14 227:12,13,20,21 232:7,19 233:22 236:9,16 237:23,24 241:20 242:10,13 246:4,8 250:4 251:3 251:4 252:11,16 254:15,19,20 261:8 262:19,20 265:22 266:12 268:14 269:6 271:9 273:5,6 273:10 275:23 276:20,21 277:13 277:20,23 279:1,2 280:3 285:25 289:13 290:14 293:16 295:10,11 295:22 299:16 302:10 311:17,18 315:2,7 319:11 322:24 324:2 326:21 327:6,18,24 331:5 correction 76:2,13,25 330:4 331:8 corrections 75:25 76:21 330:1 331:7 correctly 121:15 196:1 199:6 208:16 215:7 224:15,19 255:4 308:10 325:21 correspond 155:19 corresponded 120:24 cost 71:18 72:2 96:23 100:14,25 108:6 168:19 169:13,17 170:9,13,20 179:5 179:21,25 180:1,9 185:8,20,22 186:1 186:14 208:1,1 209:21 319:7 costs 96:10 169:8 200:4 210:10,14 215:12 287:7 319:8	319:9 counsel 9:5 17:1,2,6 17:10 18:11 20:17 20:21,23 32:20 33:11 120:7 142:17 197:10,20 209:6 230:4,5 249:1 333:1 counties 84:6,10,11 84:12,12,15,18,20 84:21 85:1,3,7,15 86:12,15 87:13,16 89:25 91:9,13,17,22 91:24 92:1,5,13,16 92:19,21,24 93:4,7 93:12 124:10,20 149:4,8,9,10,16,18 149:20 166:3,5 167:1,5 171:9,21 173:8,12,14,22 174:15,22 175:18 175:22 176:4,6 179:1 181:9,15,21 181:25 184:20,24 187:18 188:1,4,25 191:13,16,20,23 192:3 198:15 200:23 201:11 206:10 217:1 228:13 268:19,19 269:1,24 270:14 country 16:7 county 5:22 6:19,22 7:3 15:8,21,25 23:21 59:7 71:6,10 71:15,23 72:13 80:14,19,24,25 81:6 81:9,15,22 82:2 85:1,6 86:14 88:21 88:21,23,25 89:2,12 91:6 93:10,13,13,24 94:2,10,18 126:17 149:9,12 152:7 166:8,16,18 170:22 171:12 173:5,6,6,7 173:16,21 175:14
---	--	--	---

JOE PETERS

4/30/2014

10

175:18 176:8 177:23 179:12,15 181:10,23 187:20 187:20 188:2,14,16 188:18,22 195:10 198:20 199:15 200:15 203:19 204:14 220:3,6 222:7 223:10,11 236:9,10,11 237:7 250:14 268:22 269:6,10,12 270:13 271:11,14,20,23 272:8,14 273:4,8,9 274:9 275:1,10,22 276:5,10,15,19,24 277:2 290:8 291:1 332:9 County's 223:9 county-led 227:24 couple 59:20 149:8 149:10 236:12 241:7 295:6 course 52:2 270:12 270:16,18,20 273:13,18,20,24 299:14 302:1 318:21 court 1:1 9:17,24 17:16 24:25 25:19 26:3 41:13 174:19 213:16 223:6 316:22 317:7 332:1 courtesy 193:4 cover 6:10 147:21 197:4,21 275:5 293:14 coverage 206:2 207:18 228:13 covered 33:11 189:10 208:13 234:2 co-located 67:11 create 96:19 199:12 created 42:2 126:1,2 292:14 328:20	creating 124:23 200:8 206:8 creation 244:17 credentials 217:25 credible 26:5 Creek 2:11 creep 221:13,15,20 222:18,22 223:3,21 criminal 15:14 25:6 25:19 26:3 60:5,12 67:11 148:24 165:5 165:7,12,14 175:24 191:4 303:11,24 304:1 criteria 110:18 204:22 257:7,10 271:5,12,24 272:2 critical 195:12 criticism 234:6 237:17 CSR 1:17 4:5 48:25 55:3,4,7 56:5,12 59:21 63:25 64:2 71:6,8,22 78:7 95:20 170:2 202:15 203:10 250:16,17 259:5,8 263:11,13 297:17 333:12 CSRs 42:17,19 43:13 43:18 44:3 46:20 55:11 61:8 63:4 71:4 215:4,22,23 218:21 250:12 255:8,10,14 259:17 266:11,14 cup 10:21 current 10:17 16:14 35:20 49:15,15 58:4 65:23 104:9,16,21 146:20 153:14 154:25 306:4 327:5 currently 59:8,10 65:17 103:23 191:13 214:23 215:3 222:11 321:2	322:5 custom 310:10 customer 21:12,15 21:23 22:4,5,11,13 32:23 41:8 42:15,25 53:11 59:13 70:18 70:25 71:1,2,20 93:11 177:15 214:24 240:7 243:18,19 244:21 244:22 245:12,16 247:1 285:4 296:10 296:21 327:13 customers 285:14 CUTLER 3:7 Cypress 2:11 <hr/> D d 3:1 36:11,12 53:14 306:1 daily 43:2 180:12 321:15 Dallas 4:2 149:9 173:6 200:15 220:3 220:6 223:9,10,11 236:11 Dallas-Garland 199:8,9 200:17 Dan 8:10 77:16 99:9 103:22 127:25 130:1 142:19 Daniel 2:3 daniel.freeman@u... 2:8 data 6:11 30:13 31:7 42:21 43:8 49:14 59:17 62:20 63:21 63:21 108:13,24 112:7,7 113:11,12 114:10 115:5,8,10 115:17 117:11 118:17 120:21 121:3,24 123:5,7 132:7,24 135:2,6,9 136:13,17 137:1,8,9	137:12 139:7 140:25 141:8,23 142:9,13 143:2,7,10 143:10,14 148:12 158:1 160:5 161:23 177:9 205:17 320:6 320:8,9,10,11,12,23 321:12,15,23 database 37:17,19,25 47:5,21,23,25 62:19 64:14 69:7,10 74:10 109:13,16 112:9,12 112:18 113:6,15,18 119:22 120:10,18 121:3,4,6,10,14,14 121:16,17 122:2 124:13,15,17,18,22 125:5,19,23 126:10 128:2,19 129:4 134:21,22,25 135:3 137:12 148:9,11,13 148:14,21,24 149:1 149:4,5,11,22 150:2 150:9,25 151:24 154:23 155:4,6 157:8,9,25 158:6,15 158:15,16 159:2,6 160:16 161:5 162:21,22,23 163:5 163:6,9,10,11,16,20 163:21,24 175:19 175:20,21,22,24 176:3,11,13 180:11 180:19 181:20 257:4 databases 49:5 113:11 121:1 128:17 148:20 160:12 161:13 175:15,16 date 7:7 27:24 28:4 38:7,8,15,19,24 41:13 89:11 98:12 98:19 108:17 111:10 113:18
---	--	--	--

JOE PETERS

4/30/2014

11

122:13 126:20,20 134:6 135:7,10 141:20,20 143:8 144:19 149:25 151:6,14 170:10 231:25 235:10 237:2 245:25 277:23 312:10 318:10 324:17 326:3 333:12,15 dated 5:24 6:3,13,14 6:16,17,18,19 88:19 213:8 246:3 273:5 276:22 dates 91:1 108:23 109:20 120:24,25 126:24 272:8,17 David 36:12,13 Davio 20:2 184:3 day 11:8 23:21 39:15 39:16,17,20,24,25 40:1,3 62:4 171:25 317:18 333:7 days 38:6,8,14,19,23 39:2,6,16,21,23,24 44:17 45:1 49:10,22 87:1,15,19 89:19 93:17,19,19 127:3 171:25 198:17 252:11,15,17 257:12 269:25 278:9 DC 2:7 3:8 deal 229:23 deals 22:14 death 23:23 180:18 debatable 78:19 218:7 debates 208:17 deceased 128:23 December 16:23 32:14 129:12 DECHERT 1:18 2:21 3:1 decide 233:18 327:4	decided 58:5,7 185:17 227:7 233:11 284:25 decision 96:19 100:3 100:7,10 115:9,16 115:21 177:13 192:10,18,19 193:7 223:15,15,16 225:19 226:5,6,17 226:20,24 227:5 228:18,19 233:13 233:16 263:8,13 284:3,4,7,20,22 326:18 decisions 229:4 263:14 declared 133:13 decline 116:19 declined 92:2,7,13,19 93:10 116:8 declines 55:7 decreases 175:13 decree 316:21 317:7 318:12 dedicate 285:4 dedicated 284:5 325:20 deem 41:1 deemed 91:6 defeat 101:6 defendants 1:6 3:15 9:4 332:6 defer 137:22 define 204:22 defined 206:21 defining 201:21 definitely 315:15 degrade 215:5,20 216:3 delayed 174:3 delegate 82:16 83:4 83:13 deleted 64:16 deliberation 107:7 deliberations 226:22	deliberative 226:16 delineated 224:12 delivered 16:25 delivery 208:11 demand 323:18,22 324:4,16,17,22 325:5,12,16,25 326:19 demographic 195:19 demographics 89:1 130:21 138:11 192:3 demonstrate 270:23 demonstrated 270:24 denied 203:6 256:1 department 1:8 2:5 3:21 5:21 13:6 14:18 15:18,19 16:5 16:8 29:15 30:5,8 30:25 31:3,7,18 34:4 35:11 37:24 41:1,4,10 71:12 75:17 81:22 85:25 96:7 107:10,11,24 107:25 113:25 114:8,10 115:15 130:8 134:16 137:16 139:1 157:23 160:9 191:4 212:1 220:6 227:19 229:7,9 231:18 279:25 280:3 313:3 313:5,21,22,23 314:1,10,17 315:22 315:22 320:4 departments 133:22 175:23 department's 31:13 252:25 253:2 301:20 depend 163:22 195:9 dependent 53:19 169:8,14 depending 195:5 202:14 204:6	285:13 308:4 depends 45:10 56:3 153:2 224:7 deploy 220:13 244:13 deploying 87:6,12 221:18 deployment 170:12 225:4 depo 23:2 deposed 9:11 23:12 24:10,14,15,19 deposition 1:8,13 5:14 8:7 9:14 10:8 19:24,25 21:2,3 22:18 27:1 28:8 79:8 104:10 189:15 224:10 239:23 240:1 241:15,24 267:8 327:22 332:15,17,22 deputies 221:6 deputy 14:17 21:12 139:25 188:1 245:8 320:24 describe 197:8 198:11 202:10 209:8,14 227:23 230:10 described 29:20 55:16 132:9,15 203:23 231:23 237:2 describes 89:9 describing 236:1 description 5:12 68:23 313:18 designate 151:23 159:17 162:18 designated 18:12,13 18:25 19:4,16 103:25 105:11,17 106:3 107:20 112:4 119:7 128:1,2,6 130:2,6,8,19 131:3 131:16 132:4
---	--	---	---

JOE PETERS

4/30/2014

12

135:25 150:16 153:8 158:10 161:1 283:25 designating 18:18 152:15 designation 105:20 152:14 designed 202:2 designee 114:1 desire 196:10,11 desks 243:16 despite 325:10,14,15 destroyed 76:4 detail 15:23 detailed 150:8 details 302:1 detected 297:6,9 determination 227:3 303:18,21 314:7 317:24 determine 31:14 35:16 37:6,17 51:12 78:21 91:17 105:5 108:10,21 113:21 114:9 119:2,14 120:19 122:4 133:15 140:25 149:12 169:12,17 171:18,22 175:3 177:9 179:5 192:15 199:23 205:2 206:10 237:5 313:24 determined 24:5 58:12,15 69:2 171:20 225:23 determines 259:13 determining 48:21 develop 33:3,10 35:15 developed 286:7 320:16 development 176:25 222:7 device 185:2,11	devise 113:9 121:20 135:15 devote 93:1 devoting 325:4 DHS 279:25 died 180:14 dies 152:10 differ 51:19 124:12 difference 57:18 144:6 161:15,16,20 253:22 254:2 260:15 264:10 275:4 314:16,19 differences 162:12 different 55:24 141:21,22 150:1 152:17 158:11,22 165:12 168:16 179:22 182:25,25 183:2,22,22 207:14 208:25 253:13 264:2 317:10 318:17 323:25 differently 152:22 difficult 12:7 264:16 264:20 direct 35:14,25 86:5 96:10,20,23,24 97:15 229:8 240:15 301:16,21 306:16 directed 26:15 90:5 228:14 285:11 325:11 direction 177:22 directive 205:4,6 directives 58:19 63:14 directly 13:19 14:13 22:15 82:17 96:7 122:9 136:14 149:15,18 175:14 187:17 328:21 director 13:6 14:17 16:8,12 21:12 176:20 192:21,25	211:23 229:3 233:4 233:12 245:8 320:25 326:13,24 327:4 directors 139:25 188:2 disabilities 203:16 disability 203:17 disagreement 54:17 55:8,21 56:24 disappearance 24:1 disappeared 23:21 discovered 240:23 discrepancy 278:24 discretion 31:14 55:3 55:4 65:6 81:11,14 227:18 259:17 326:16 discretionary 196:12 327:16 discuss 105:25 106:25 139:12,13 139:20 discussed 28:13,20 78:22 80:11 83:24 102:7 106:24 117:1 127:1 135:25 139:21,24 140:19 discussing 77:14 250:10 discussion 58:13 96:9 96:12,15 105:9 106:22 107:8 117:4 127:7 135:22 138:6 184:18 185:1 189:6 197:18 213:4 214:10 231:14 discussions 42:22 66:2 133:24 disenfranchising 233:9 dispatch 202:15 dispatched 169:21 dispatcher 15:7 display 287:4,5,9,10	287:14 displayed 162:8 286:2,3,15,19 287:15 displaying 288:8 distance 207:3 208:3 distances 207:21 distinct 43:9 distinction 67:8 74:2 74:22 75:12 124:16 144:11,18 distinguish 146:21,23 distinguishable 150:10 distinguished 175:8 distribute 286:22,25 distributed 149:7 276:24 distribution 234:2 DISTRICT 1:1,1 4:1 332:1,1 districts 149:12 175:18 division 1:2 2:5 13:7 13:13 15:14 19:20 22:10 32:23 33:16 78:14 121:8 123:21 137:19,21,23,24 138:1,21,23 140:17 151:2 157:14 168:4 176:21 185:24 192:20,24 215:16 217:24 233:5,13 241:3 243:9 245:5,6 269:9 320:17,18 326:13 332:2 divisions 67:12 168:6 191:2,3 divorce 316:21 317:7 318:12 DL 14:1,3,10 126:19 178:24 180:6 202:1 206:20,25 211:4 214:25 215:4,5,20 216:3,12 217:10,24
---	---	--	---

JOE PETERS

4/30/2014

13

DLD 234:13	117:6,7 235:24	60:1 61:2,12 62:10	158:14 159:11,23
DLs 249:14 255:25	documents 11:25	63:9 64:8,12,14	160:13 164:12
doc 201:24	36:18,24 37:15 40:6	65:7,18 67:1,5	165:5,9 166:8,23
document 11:21 12:2	40:15,19,22,24	70:14,22,25 71:14	167:9,17,23,24
17:24 18:1 27:8,15	41:18,22,24 42:2,3	76:12 77:8 80:18	169:19 170:4,6,10
28:18 30:21 32:4	43:7,12 51:11,17,18	81:1,11,14 82:1,5	170:23,24 171:1,11
37:3,4 50:22 51:21	51:19,23 53:9 54:3	82:16 85:8,16 86:8	171:13,16 172:13
60:22 71:21 74:2	54:7,15,20 55:9	86:12,14 87:12	172:21 173:8,11,18
81:19,23 82:8 84:2	56:25 72:22 136:21	88:17 89:9 92:16	173:25 174:3,5
88:16 98:5,15,17,21	185:20 210:3	93:3,6,11 95:8,16	175:1,14 176:17
98:25 110:3,5 123:9	239:15 241:22	96:4,7,10,16,23	177:2,4,5 178:1,16
136:2,3 145:9,15,16	250:9 252:1,24	97:2,22 99:11,12,13	179:4,16,20,24
145:18 185:25	253:2,14,19,20	101:25 103:6,17,23	180:10 181:11,13
186:11,18,20,25	254:3 267:6,14	104:22 105:5,18	181:20 182:3,7,9,12
187:1,8 197:2,9,12	272:20 275:4 277:7	106:14 107:1,6,9,18	182:16,17 183:1,7
199:13 204:21	277:12 278:5,12	108:9,19,20 109:10	183:18 184:2
205:14,17,18 206:4	279:19 287:15	109:12 110:10,12	185:23 186:19,24
206:9,18 209:12,14	294:20 305:20	110:15,16,20,22,23	187:2,3,17,20 188:6
209:16 210:16	306:8,11 311:20	111:4,5,17,19,20,25	189:21,24 190:3,8
213:18 242:4 246:2	316:19,20 319:10	111:25 112:3,11,12	190:16,22 191:8,10
248:17,21 249:16	323:21 328:5,20,23	113:3,6,9,11,12,14	191:13,23 192:2,3,6
250:1,25 251:14,22	Doggett 3:11 5:7 9:1	113:17,18,20	192:10,19,25,25
263:25 264:2	9:1 176:17 301:10	114:16 115:2,4,25	193:8,11,12,15,16
265:10,14 269:20	301:11 302:18,21	115:25 116:1,14,15	193:20,21 194:3,5,9
272:4,5,18,21,23	308:24 317:15	116:19 117:1,4,11	194:10,11,11,21,21
273:3,7,12 274:15	318:21,25 319:4,6	117:11,14,17,22,24	196:7 198:16
275:9,21 276:8,12	319:23	118:1,9,16,21 119:7	199:18,25 200:3,5
276:16 277:17	doing 35:22 36:5	119:9,10,13,22,25	200:22,23 201:15
278:4,14,15 279:16	47:18 53:11 66:1	120:1,8,17,21	201:20,23,25
285:23 288:13	163:3 170:15 201:4	121:20 122:1,4,7	203:13,21,25
292:6 293:8,13	215:3 254:5 269:24	123:5,13,15,19,20	204:25 205:5,10
304:21 305:25	274:13 291:18	124:5 125:8,17,23	206:4,5,14 207:9,10
306:10 308:2 318:9	296:11,13 297:4	126:9 127:23 128:7	207:24 208:3,11,18
documentary 52:7,11	DOJ 218:4	128:17,21 130:11	208:19 210:6,9,13
52:14	dollars 185:22 200:4	131:1,3,4,4,8,8,12	210:22 215:11,16
documentation 7:7	215:1 232:17 326:3	131:13,18,22 132:7	216:10,17 217:2
20:4 43:7 47:24	door 3:7 286:3	132:15,19,23	218:12,12,16,17,18
56:4,10,22 57:5	300:16,17,18	133:10,18,20 134:1	219:1 220:13
69:21 259:23,25	downtown 196:19	134:7,8,9,18,20	223:22 225:22,24
277:20 298:6	DPS 9:5 13:20 17:2	135:9,11,15 140:4	226:3,7,12 227:6
301:25 302:1 304:4	20:22,24 22:22	140:11,23 141:7,10	228:10,14,21,22
309:14 316:16	23:13 26:15 29:1	141:23 142:3,8,12	229:8,12,24 231:6
317:11,20 319:17	32:8 33:7 37:1,6	143:2,14 148:15,20	232:1,13 233:11,25
319:20	38:17 42:6 46:7	149:15,20,22 150:1	234:5,19,20 235:2
documented 65:24	49:11 58:1,5,23	151:5 152:10 157:8	235:15 236:7 237:1

JOE PETERS

4/30/2014

14

237:3,4,15,23 239:2 239:8 242:6,10 243:3,5,7,20 244:20 245:13,25 246:21 246:23,24 250:11 252:13 254:18 257:23 258:1 259:20 260:24 262:9,17 263:20 266:8,19 267:19 268:6 269:5,10,12 269:17,18,21 270:3 270:9,12 271:15 273:17,23 277:3 279:7 280:16,24 281:20 282:24 283:1,5,11,23,25,25 284:9,25 285:16 286:17,22 287:16 287:25 288:3,11,25 290:18,18 291:4,11 292:12 293:2,17,24 294:2,6,9,13 295:7 297:16 298:25 299:7 303:9,17 305:7 306:2 308:7 308:15,22 311:10 312:15 316:1,25 319:12,15,16,21 321:12,18,19 322:6 323:17 324:7,14,18 324:21,21,22,24 325:3,12 326:16 DPS's 217:6,14 231:18 234:22 277:18 280:12 DPS-issued 37:11 105:7 108:11,22 119:4,16 120:20 DPS-led 228:4 DPS-run 87:20 draft 33:10 drafted 15:12 32:15 33:15 drafter 32:18	drafts 239:21 draw 246:12 252:4 drink 12:10 drive 177:22 205:25 256:8 258:19 driver 13:10 41:2 42:9,20 43:1,9 44:23,24 48:9 49:16 58:10 59:16 67:16 80:20,21 85:9 86:17 87:13 92:6 108:9 121:3 124:9 125:11 125:12,13 130:22 134:21,22 137:12 138:12 148:13 155:22 163:13,24 168:3 169:21 172:5 172:25 173:4,14 177:11,11,14,23 178:6 180:8,21 184:21,22 185:24 190:9,18 193:18 195:6 201:17 202:12,13 205:24 206:3,12 215:16 217:17 218:25 232:3,25 243:5 247:1 261:3,5 264:5 264:17,22 286:7 296:3 297:15,22 300:8 321:23,24 drivers 111:5 driver's 13:7,13 14:3 14:10 16:12 19:20 22:5 37:5,16,17,19 37:20 38:18,22,25 42:11,21 43:24 44:16,25 45:8,11,20 46:4,9 48:2,5 49:10 49:12,19,19,23,24 50:2,6,14,20,23 51:2,5 52:4,15,23 53:4,21,23,25 54:19 56:8,13 59:6 62:23 63:17,19 67:6,10	72:24 74:20,23 75:5 78:14 82:13 92:6 109:16 110:19 112:8,17 113:15 117:19 121:10 122:2 124:12,14,17 124:22 125:5,15 126:7,10 132:14 133:15 135:3 139:7 139:18 140:14 141:16 143:23 144:3,7,7,12,13,14 144:19,20 145:19 145:25 146:16,20 147:3,8 148:9,11,16 148:20 149:3,11 150:2 151:10,12 152:21,23,25 153:19 154:8,20 155:1,5,11,19 156:3 156:7,11,16 157:9 157:21 158:14,17 158:18,22,23 159:2 159:6,13 160:15,18 160:22 161:14 162:21 163:6,9,15 163:20,25 164:3,16 164:23 165:4 173:9 173:12 175:19 176:3,11 180:3,10 188:5 190:22,23 191:10 192:20,24 195:20,21 198:14 206:21 211:2 218:20,22 232:5,9 232:23 233:5,6,7,12 237:19,20 243:9 252:10 253:16,19 254:3,10 256:5,24 259:4,10 260:4,6,10 262:6 278:7 283:11 284:9,16 286:4 298:11,18,19 299:13 305:21 314:22 320:10,13	326:13 driving 45:5 256:7 257:3,4 259:11 261:10 298:3 drugs 12:6 duly 1:14 8:3 332:14 Dunbar 3:5 5:6,8 8:18,18 189:8,9 195:8 196:22 197:1 197:13 198:4,9,10 201:7 205:13 208:6 209:6,8 211:13,17 212:6,10,13,19,22 213:2,15 214:4,12 214:13 219:5,9 223:8 227:2 229:20 230:4,7,10 323:11 323:14 325:22 327:19,21 DUNN 2:10 duplicate 129:21,24 258:3 259:9 duplicates 128:23 duplicating 75:19 duties 82:16 123:25 244:5 Duval 5:22 81:22 82:2 dynamically 285:15 D.A 205:3 <hr/> E E 2:1,1 53:15 331:1,1 earlier 38:19 39:1 55:16 78:4 102:7 106:24 109:5,7 118:3,11,18 126:15 135:25 140:19 141:14 156:22 158:7 185:21 192:14 194:7 205:20 211:6,7 243:2 251:9 295:8 315:4 319:7 early 306:17
--	---	---	--

JOE PETERS

4/30/2014

15

easier 40:21	92:2,14 93:1 94:15	276:25 277:13,20	272:9 273:9 276:6
east 21:23 191:21	95:4,25 96:5 97:9	280:2,5,6,12,18,25	281:3 283:17 284:1
easy 13:4 184:19	97:23 98:23 99:8	281:22 282:2,15,24	284:22 290:9
213:23	100:14,24 101:12	283:2,6,7 284:4,16	295:21 296:15,16
educating 294:14,15	101:21,22 102:8,16	285:7 287:16	296:25 297:1
education 15:3 66:22	102:17,22,24 103:2	289:13 291:12	301:21 322:25
245:14 280:23	104:11,13,14	292:3,7,17 293:18	323:18,22 324:1,4
282:2,24 293:18	158:13 159:3,6,13	294:3,10,15 295:9	324:13,16 325:16
educational 14:23	159:16,21 160:16	295:10,12,18 296:6	326:4,23 327:2,10
effect 60:1 175:11	161:21 162:4,11,13	296:22 297:25	EIC's 283:10
208:10 231:17,19	164:5,8 166:3,6,15	298:5,9 299:23	eight 12:11 16:7 84:6
effective 177:18	167:5 168:22	300:4 301:22	84:11,18 85:3,7,15
effectiveness 273:14	169:19 170:3,3,5,19	302:13,16 307:12	86:12,14
effects 215:15	172:6 173:21 175:7	311:16 312:13	eight-hundred-plus
effort 119:11 189:13	178:17 179:25	314:17 316:1	185:22
237:4 281:2,2	180:2 184:16,23	321:21 322:3,7,7	either 53:22 57:6
287:21	187:18 188:23	323:6 324:19 326:2	59:22 71:22 72:16
efforts 46:16 66:22	190:1 201:24	326:19,21 328:17	78:7 85:5 109:20
91:4 117:14,17	202:21 203:8	328:18	117:9 122:23
155:25 210:13	206:15,17 208:10	EICs 7:16 44:8 48:13	164:18 227:18
293:22	210:11,14,22 211:8	64:4,23 65:1 67:6	253:11 269:12
EIC 5:20 7:6,12,15	215:11,12,18,25	72:13 76:16 80:16	274:13 277:5 289:5
14:12,13 28:7 30:13	216:2,11,16,17	80:24 81:6,7,9,12	299:2
36:20 37:1 38:9,24	217:1,7 218:8 219:1	81:15 82:13 85:21	elderly 23:19 204:9
39:2,3,8,25 40:13	220:14,22 221:1	93:13,23 94:2,11	election 6:19,21 7:2,5
42:3,23 43:3,7,8,8	222:8 223:22 224:3	95:8,17 102:13	7:9,13 13:11 27:3,6
43:21 44:1,2,16	224:6,16 225:13,18	135:4 166:13,21	27:16 28:6 29:8,8
46:4,11 47:12,16,18	227:8,17 229:19	167:9 168:22 169:9	29:15,18,20 30:7
47:21 48:6,16 49:6	231:3,18,23 232:1	169:24 170:23	32:8 34:15,18,21
49:11,14 50:8,17,22	232:13,24,25 233:7	174:23 175:5	37:9 38:7 39:4,12
52:3 53:2,3 54:25	233:10,10 234:23	176:22 178:20	39:15,16,20,24,25
55:7 56:1 57:1 58:9	234:25 235:12,16	180:6 181:11 182:1	40:1,3 42:13 43:2
58:9,14,16,20 59:7	236:1,16 237:17,21	188:15 202:18	49:9 54:13,21,23
59:8,9,17 61:10	238:2 242:8,12	208:20 211:3	56:20 58:2 69:20
62:19,19,24,25 63:8	246:20 253:15,21	216:20 218:22	75:19 87:17 93:20
63:16 64:13,20	256:16,18,19 257:6	226:14 227:22	98:10 173:22 176:7
65:14 68:1 69:14	257:16,19,21	231:8 232:9,17	181:21 216:8
70:2,7,16 71:3,10	258:11,20,24 259:7	234:2 235:4 236:8	230:12 236:9,11
72:7,9,19 73:7,8,10	259:12 260:1,11,22	240:22 243:13,17	246:7,8 249:16
73:17 74:14 75:6,8	261:4,23 262:7,23	244:17 245:25	250:3 251:2,15
75:11,13 76:3 77:5	263:21 264:16	246:18,22 249:13	252:6,22 254:9
78:18 80:14 81:1,21	267:20,24 268:20	252:14 253:6 254:3	255:22,23 256:14
82:4 85:10,11,15	268:23 269:23	254:19 262:18	258:5 262:15
86:16 89:5,11,12,19	270:12 271:5,12,18	263:12 266:9,12,15	263:18,21 267:1
90:7,10 91:10,14,18	271:20 274:1,16	268:7 271:14,24	273:4 275:10,22

JOE PETERS

4/30/2014

16

276:19 277:19 285:24 293:10 303:13 313:4 321:3 elections 138:21,23 218:15 220:6 electronic 198:23 281:14 320:9 element 304:22 elevate 263:9,10 eligibility 40:7 44:16 251:14 271:5,12,24 272:2 313:25 314:15 eligible 48:17 54:22 144:3 149:13 252:5 257:6 259:6 260:7 302:3 303:7,10,16 303:19,23 eliminate 65:21 125:19 eliminated 124:22 elimination 66:13,23 Elizabeth 2:4 9:8 Ellis 310:25 Elm 4:2 employed 110:9,12 245:14 333:2 employee 61:2 70:25 71:12,14 123:19 131:22 160:1 170:1 170:4 183:11,14 249:4,10 265:9 267:16 295:7,8,12 296:5,14 employees 46:13 61:12 169:19,20 171:11,16 182:4,9 198:15 239:8 243:3 243:4,5,5,7,11,16 243:20 244:20 246:20,21,23,24 247:1,14,20 249:20 250:11,14 252:13 253:3,5 254:1 255:3 257:23 259:20	262:18 263:4 266:6 266:7,11 267:4,19 268:6,20 271:15 273:8,9 275:2,3,12 275:13 279:7 296:24 298:25 employee's 160:5 265:7 employment 15:5 empty 285:4 enable 202:3,4 enacted 77:8 244:5 enactment 208:17 210:10,15 217:15 encompass 22:2 encounter 296:21 encountered 309:4 encourage 281:20 encouraged 281:24 encouragement 228:17 enforced 299:9,10 enforcement 13:11 14:24 15:3 16:6 58:24 64:1 67:5,9 67:13,23,25 68:6,8 175:24 176:5 209:25 217:15,18 217:21,25 218:2 enforcing 297:3 engage 324:14 Enrique 123:18,19 123:20 129:15 ensure 58:8 88:8 93:12 299:12 ensures 233:15 ensuring 35:17 enter 80:18 92:2,7,14 92:22 170:3 182:11 entered 82:1 entering 42:21 enters 170:2,22 entire 54:24 175:22 176:13 227:17 entirely 11:16 55:24	entirety 22:3 293:17 entities 83:14 entitled 7:2,11 250:3 251:14 273:3 275:21 276:18 277:19 289:12 293:9 entitlements 47:7 entity 294:13 entrance 286:4 entries 308:12 entry 43:8 59:17 62:20 300:18 equally 233:1 equipment 84:24 166:20 170:12,14 171:1,4 172:8 185:6 188:15,19 216:22 216:23 230:21 270:12,25 271:1 err 48:13 error 42:25 43:15 essentially 304:21 establish 44:16 45:9 45:21 46:1 47:7 50:3,10 51:2,24 73:18 75:10,14 84:15,20 85:1,2 98:18 103:15 116:4 177:13 established 26:12 45:16 75:22 85:5,14 95:24 establishes 31:3 establishing 53:12 104:17 estate 184:5 estimate 185:5 325:15 estimated 109:14 168:18 169:4 198:20 199:15 estimation 325:15 et 1:3,5 165:16 268:20 306:23	325:14 332:3,5 ethical 294:11 ethnicity 113:15 122:1 126:20 evaluate 179:20 210:21 283:1 evaluated 203:18 evaluation 55:5 194:18 273:12 evaluations 273:13 273:18,20,25 evening 95:24 291:13 events 21:7 220:14 eventually 81:2 128:21 everybody 213:21 214:2 225:4 265:3 evidence 111:2,22 112:22 117:22 118:6 132:19 135:19 265:15,19 evidently 197:12 exactly 30:19 182:6 186:8 190:11 220:8 examination 5:5,5,6 5:6,7,7,8 8:4 147:17 189:7 238:12 301:9 320:1 323:13 332:19 examine 117:10 example 40:12 67:14 149:24 150:5 151:18 154:8 160:7 173:2 175:2 179:6 182:8 183:4,12,15 199:8 291:2 303:15 305:19 306:1 307:25 316:15 318:15 exceed 309:5 exceeds 45:3 Excellent 290:2 exceptions 149:8 191:25 exchange 6:14
---	--	---	--

JOE PETERS

4/30/2014

17

219:10 excuse 18:8 39:15 60:23 62:19 67:17 145:16 211:11 215:16 265:7 296:12 execute 166:11 exemption 149:14 exemptions 149:13 exhaustive 210:8 exhibit 5:13,14,15,17 5:19,23 6:1,2,4,5,7 6:9,11,12,14,15,16 6:17,18,20 7:1,5,8 7:10,12,14,15 17:18 17:19 28:16,17 29:10 32:2,3 60:17 60:18 81:17,18 88:14,15 98:2,3 109:24,25 123:1,2 132:16 145:8 179:2 186:9 187:14 196:23,24,25 197:21 205:11,12 211:15,16 213:7,18 219:4,5,7,8 238:18 245:23 246:3 250:23 268:12 273:2 275:20 276:17 277:15 278:11,14 285:22 289:9 293:6 299:4 301:17 302:20 304:3 306:17 312:7 312:22 322:19,20 322:21,24 EXHIBITS 5:11 exist 40:25 53:3 235:19 existing 65:8,9 76:15 178:19 206:2 215:4 326:9 expand 222:24 expanded 222:8 expanding 221:16,17	expect 216:9 325:2 326:24 expected 323:18 expedited 285:7 expend 327:2 expended 326:3 expenditures 325:2 326:8 327:5 expense 216:23 232:5 experience 19:20 72:20 80:5 216:6,13 216:15 218:2,3 325:22 experienced 74:17 expert 130:4 expertise 78:17 218:8 expiration 28:1 113:18 125:2 126:24 144:4,12,13 144:14,19 155:18 155:19,20,21 264:18 278:10 333:12,15 expirations 155:24 expire 28:3 49:24 54:4 expired 38:6,8,14,19 38:23 39:1,6,16,20 39:21,23 44:17,25 45:1,8,21 46:4,10 49:10,20 50:3,7,14 50:20,23 51:1,5 52:4 53:21,24 54:1 54:8,19 56:13 73:22 125:4,22 127:2 181:3,7 252:10,14 257:11 260:6,8 261:3,10,12,13,18 278:9 298:11,17,18 expires 39:14 explain 32:25 256:3 258:7 explore 63:6 228:17 expunged 125:5,9 extensions 164:25	extensive 165:20,23 178:25 222:10 250:18 extent 10:9 84:19 86:17 87:5,12 101:24 111:24 112:1 119:6 133:18 133:23 134:12 143:18 193:24 212:15 225:12 226:15,17 285:9 310:17,18 324:8 extra 167:5,8,16 170:6 174:5 218:18 218:19 extract 126:10 eye 196:4 Ezra 3:1 Ezra.rosenberg@d... 3:3 e-mail 5:23 6:3,4,10 6:13,14,16,17,18 7:11 88:17,20 89:8 89:15 90:25 110:6 111:10,15 123:14 123:15 126:17,23 127:8 128:20 129:2 129:9,13 131:24 197:4,21 198:3 211:18,20 212:4,7 212:11,11,16,18 213:8,12 214:14,22 214:22 215:6 219:10,13,14,15,16 219:17,20,24 220:5 220:12,17,20,25 221:4,12,15 222:6 234:10,18,23 235:11 236:5 246:3 246:13 247:8 251:1 251:5 268:13,17,18 268:21 269:5 289:10,11,11,21,25 290:13 e-mails 20:3,6,9,12	128:20 131:21 132:9 136:23,25 158:4 235:10 236:15 <hr/> F <hr/> f 30:1,2,3,24 53:20 331:1 face 146:16 217:10 Facebook 282:7 289:4,7 faced 231:22 232:14 233:4 facilitate 119:22 facilitator 248:11 267:23,25 274:14 facilitators 244:13 251:6,10 255:8 facilities 291:1 facility 291:2 fact 35:8 38:13 40:18 62:21 63:5,15 142:16 165:1 175:12 203:8 222:2 240:24 270:24 281:16 309:25 312:6 325:14,15 factor 194:4,8,12,16 194:23 195:23,24 195:24 196:17,20 218:24 factors 271:8 facts 104:17 111:2 failed 59:21 189:12 265:9 fails 69:19 90:15 failure 70:6,7 324:14 324:18 fair 148:5 199:22 212:7 217:14 224:2 289:8 306:5,6 325:1 fairly 311:25 314:1 fall 180:22 falls 128:11 false 12:23
---	---	---	--

JOE PETERS

4/30/2014

18

familiar 26:7 27:3 31:17 76:17 110:13 187:7 222:12 251:18 282:19 307:5 319:9	figure 206:16 317:15 figuring 206:13,14 file 36:1 filed 24:11 311:8 fill 214:25 filling 153:13,16 filter 129:21 filters 128:22 129:3 129:17 final 34:1 55:5 192:18,22 229:1 316:11,11 finalized 33:22 99:18 99:20,21 finally 24:4 328:9 finance 168:4,8 financial 93:7,9 168:3,7 financially 333:4 find 26:4 168:1 185:19 234:17 305:1 306:7 313:2 fine 10:25 14:6 18:5 18:16 19:2 57:8 213:14 214:1,5 fingerprint 58:14,16 58:19,20 59:15,18 59:23,25 64:7,11,22 65:14,17 66:14,23 161:14,15 185:2,10 fingerprinted 157:16 fingerprinting 58:3 59:9 fingerprints 60:1 64:12,25 65:7 68:11 68:14,17,19 161:12 185:17 255:5 finish 10:17 11:1 23:1,6 147:24 327:21 finished 188:12 Firm 333:15 first 8:3 11:2 13:16 16:21 23:2 54:20 55:17,23 58:1 90:6	101:19 126:17 128:19 153:21 154:9,19 219:16,17 219:20 221:11 224:13 252:8,8 283:8 295:6 296:6 308:3,13 309:5,7,8 309:11,17 316:2 318:11 320:4 fiscal 6:8 108:6 117:3 167:24 168:14,18 168:24 179:18,24 180:5 186:13,22 208:25 210:6,9,20 fit 318:18 five 87:1,15,19 93:17 93:19,19 125:14,14 155:21 177:20 269:25 323:11 fix 318:8,18 fixed 93:23 94:2,10 97:2 flight 24:3 flip 197:7 251:19 272:5 Floor 2:17 flow 149:15 178:14 fluent 245:17 focus 197:6 199:1 focusing 238:22 folder 219:7 265:8 folks 201:19 249:24 follow 113:20 122:4 301:23 310:2 followed 36:22 140:24 274:22 following 255:24 301:24 332:13 follows 8:3 follow-up 114:1,8 169:16 233:23 follow-ups 320:3 fonts 253:11 force 244:12 foregoing 331:4,8	forever 64:9 181:1,2 181:4 302:5 forget 167:13 form 29:19 35:17 40:25 44:14 50:15 50:24 51:21 61:16 62:11 69:5 70:9 73:11 74:4 76:8,15 76:18 79:11,18 83:6 89:21 93:25 97:11 97:17 98:13 99:6,9 99:17,18,22,23,25 100:4,12,16,22 101:1,9,14,23 102:9 102:19 103:21 104:12,25 111:1,21 112:20 114:3,12 115:11,18 116:2,11 116:21 117:9,20 118:4 119:5 128:25 129:6,25 132:10,17 133:17 134:11 135:17 139:3 140:9 141:2 142:5,11 143:5 195:2 200:18 201:5 202:2 205:15 205:16 207:14 247:22 270:1 279:8 280:5 294:16 304:10 325:17 formal 77:8 80:15 81:4 85:21,24 93:22 94:1,4,6,7 141:10 234:5 255:4,18 294:6 format 144:6 286:14 former 123:19 forms 30:25 31:4,12 38:2 102:7 179:8 200:7 201:22 282:1 Fort 5:18 15:15,21 60:24 forth 47:25 67:12 78:6 80:21 84:25 88:2,13 105:9 160:4
---	--	--	--

JOE PETERS

4/30/2014

19

190:10 191:3 forums 198:2 forward 14:7 42:17 124:4 196:6 323:21 325:3 326:14 forwards 220:19 found 24:2,4 48:17 255:24 foundation 62:12 101:14 112:22 114:13 116:3,23 117:21 118:5 132:11 141:4 143:6 325:18 four 298:18 307:3,4 309:16 318:14 fourth 270:10 Frank 30:2,3 frankly 307:10 fraternal 310:1,2 free 189:17 317:16 Freeman 2:3 5:5,7 8:1,5,10 9:7,10 17:16,23 18:16,19 19:2,15 23:11 28:18 29:12 30:23 32:4 33:21 60:19 61:18 62:13 63:9 70:11 73:16 74:7 77:18,23 79:13,14,21 80:8 81:19 83:8 88:16 89:24 90:20 91:3 94:1 97:14,19 98:5 98:15 99:3,13 100:19 101:4,8,17 102:4,6,12,21 103:14,19 104:3,6,9 105:3,10,16,23 106:1,12,17,24 107:19,23 110:2 111:3 112:6 113:1,9 114:5,7,16 115:14 115:23 116:7,18,25 118:1,16 119:10,13 120:15 123:4 128:6	128:16 129:2,9 130:7,19 131:3,7,10 131:18,21 132:6,12 132:21 133:20 134:3,15 135:20,24 136:12 139:6 140:10 141:7 142:8 142:12,15 143:2,9 143:16,20 145:9 146:15 147:11 189:14 214:1 320:2 322:21 323:10 328:14 frequency 143:10 Friday 20:20,21 front 19:11 98:16 233:13 243:13 286:4 FTP 124:4 full 10:9,10 54:12,14 232:1 306:25 fully 12:18 45:12 232:24 233:5 function 218:14 functional 85:16 functioning 86:12 functions 9:14 fund 167:14 232:17 232:24 funding 174:6 196:17 225:22,24 229:11 229:12,16,18 230:12 231:2,4,7,16 231:25 232:13 233:6 funds 215:3 227:15 231:21 325:19 326:9 funeral 15:8 furnish 30:7 152:10 217:2 313:5 furnished 152:7 further 5:7,8 197:11 283:19 320:1 323:13 327:19	328:15 333:1,4 future 64:20 143:13 196:8 273:24 326:18,24 327:4 <hr/> G <hr/> G 277:7,8,9 278:11 278:14,15 279:21 331:1 game 160:7 gather 315:16 gears 165:24 208:9 gender 76:5 126:19 general 3:17 9:5 17:1 17:2,10 20:21,23 32:19 33:2,11 77:10 85:22 93:24 94:3 192:9 193:10 234:6 244:10 310:12 325:10,19,19 generalize 191:22 generally 13:16 49:15 67:17,19 130:2 172:22 189:21 192:22 204:2 207:25 217:7 229:19 238:1 243:2 274:12 276:5 299:18,25 General's 17:9 generated 301:3,5 gentlemen 147:22 geographic 191:17 191:19 George 277:8,9 gesture 9:20 getting 49:25 55:23 128:3,9,9 153:19 157:21 207:10 211:12 255:10 262:7 310:1 give 10:10 11:12 18:4 19:21 23:6 68:19 73:13 90:17 91:1 105:15 143:16	147:23,24 152:5 165:14 219:5 226:18,20,21 250:19 256:25 272:18 given 19:19 65:16 85:21 86:24 92:22 92:24 112:8 140:25 162:10 163:19 166:3 167:17 170:24 171:1 176:10,10,13 177:10 194:20 195:19 207:8 232:13 249:7 258:2 259:17 291:25 297:23 309:17,17 326:19 327:23 328:10 331:6 332:16 333:6 giving 12:23 18:12 105:14 176:15 251:10 260:16 330:2 glad 40:16 gleam 196:4 go 18:10 45:4 47:10 47:16 49:11 70:13 73:16 76:12 95:19 101:10 102:16 106:10,17,19 110:14 124:2 125:2 126:12 127:5 128:19 149:16 152:1,2 153:11 179:13 182:12 185:16 189:4 197:10,13,15 204:4 204:5 212:24 224:8 238:17 252:20 254:13 255:20 259:1 263:16 279:14 286:11,12 288:1 294:25 297:11 302:13
--	---	---	--

JOE PETERS

4/30/2014

20

306:2,7,10 317:14 goal 87:15 93:18 173:21 goes 63:22 124:25 149:18,19 152:6,8 181:19 215:2 235:20 going 18:13 23:3 40:12 42:17 48:12 48:13 58:17 63:6 65:25 78:25 94:15 104:1 120:11 130:4 131:12,13,17,24 132:1 133:24 134:12 142:15 165:3 169:13 171:12 177:2,18 178:2 183:13 188:14 192:16 193:4 196:6,19 197:23 205:2 209:20,21 214:8 222:3 223:17 226:15,18,19 228:12 236:13 242:25 258:19 261:9 266:10 268:22 278:11,13 295:6 296:6 303:3,7 308:11 316:8 324:9 325:2,8 326:14,20 328:22 Gomez 123:18,19 129:15 Gomez's 123:20 good 54:9 75:7 77:16 147:19,20 189:9 213:21 219:20 222:18 306:10 Google 316:5,6 govern 87:9 193:7 governed 80:25 government 82:16,19 83:4,13 206:6 236:24 325:3,11,23	325:23 governments 82:24 governor 214:21 226:11 231:6 governor's 15:23 229:17,18,21 grand 231:20 Grande 3:11 301:11 grandfathered 153:14 156:10 grant 16:4 183:13 203:25 218:4 229:22,24 230:1,11 230:17,24 231:1 granted 56:2,10 95:3 134:24 182:10 183:17,24 230:22 great 77:18 190:7 greatest 192:12 green 144:10 229:1 greet 248:10 grew 177:21 ground 165:25 186:5 189:11,13 208:14 234:3 grounds 77:4 Group 8:19,21 groups 198:6 282:23 growth 177:8 grumbling 215:1 guard 222:12 Guerra 4:1 guess 19:2 30:23 40:21 96:13 192:17 195:16 202:23 207:8 212:6,13,22 212:23 218:10 219:12 220:20 222:16 232:11 243:6 302:18 327:21 328:9 guessing 172:15 guidance 32:19 55:13 57:10 205:4,7 223:18	guideline 204:21 guidelines 147:1,6 guru 220:22 221:1 Guyette 110:7 129:15 <hr/> H <hr/> Hale 3:7 245:10 274:13 half 269:5 hand 186:8 333:6 handed 277:18 293:9 301:18 handgun 130:24 138:14 139:17 145:4 149:1 155:4 155:10,18,20 handing 220:22 handle 64:2 67:15 170:23 182:1 handling 167:9 216:17 hands 35:19 hang 300:20 happen 23:12 65:25 156:2 255:15 297:18 298:20,23 326:6,7 happened 66:5 105:8 196:3 248:25 happening 63:4 happens 11:8 64:1 68:6 188:5,10 208:22 happy 14:6 17:3 79:13 83:8 105:24 114:5 hard 211:3 Harris 173:5,16 Hasan 3:6 8:20 196:22 211:13 219:5 head 40:13 76:18 182:24 217:24 228:22 245:6 headed 22:12	heading 252:21 headquarters 181:19 241:4 255:12 266:23 286:22 287:1,8 299:11 321:25 heads 320:18 Health 71:7 96:7 279:25 280:4 hear 72:8 95:22 147:5 heard 211:8 223:20 224:14 held 246:17 help 11:21,22 51:12 113:9 121:20 148:8 167:17 174:16 190:13 225:10 229:16 240:6 helped 135:15 helpful 18:14 191:7 319:2,4 Henson 219:25 220:10 Herd 219:14,24 220:2 hereto 1:21 HHSC 96:16,18,22 Hi 238:14 Hidalgo 173:6 high 15:3,6 300:20 highway 15:9,11,11 15:19,20 24:17 25:24 67:11 218:5 hire 170:6 Hispanic 88:25 150:7 150:10,14,17,18,21 150:22 151:19 159:19 307:6 historically 194:3,24 history 148:24 165:5 165:7,13,14 175:24 hits 47:21 hold 106:6,6 142:22 261:2,5,16
---	--	--	--

JOE PETERS

4/30/2014

21

holder 27:10 holders 75:18 124:9 201:17 263:19,22 holding 44:9 246:15 home 15:8 202:15 262:22 306:7 homebound 202:7,8 203:10,10,13,15,23 204:8,12,16,23 205:3 Homeland 211:24 home-bound 262:15 262:18,25 263:12 263:14 hotline 283:5,13,15 hour 170:2 hours 12:11 95:25 170:3 171:24 198:17 235:13 289:22 290:4,8,19 290:21 291:3,5,9,16 291:19,21,23 292:18 293:2 house 191:2 Houston 2:12 173:2 hrs 332:23 Huh-uh 208:8 Human 71:7 hump 216:21 hyphenate 310:7 hyphenated 308:1 H.B 136:18,18,24,24 <hr/> I <hr/> ID 13:10 26:17 37:5 37:11,11 38:7 39:1 39:6 42:10,20,21 43:1,10,25 44:16 45:12,13 48:19 52:23 57:16 58:10 59:16 61:4 62:23 63:20 67:16 68:16 72:24 73:8 86:18 101:18 102:7,8 105:7 108:11,22	109:15 110:19 119:4,16 120:20 122:18 124:10,13 124:14,18,22 125:16 126:7,19 127:2 133:8,16 134:18 141:16 144:23 145:19,25 146:21 160:20 161:15,17,18,20,25 162:11,14,16,19,23 162:24 163:5,9,11 163:25 164:3,7,12 164:19 172:5 178:23 180:3,6,8 182:21 193:18 201:17 202:14 203:7,9,11 218:22 237:20 249:14 256:5 258:8,21,24 259:23 260:5 261:17,22 262:24 283:11 288:1,4 296:3 297:23 idea 53:18 168:20 184:16,22 187:8 216:9 225:18 226:13 228:7 269:2 315:18 318:17 identical 154:11 identification 6:21 7:3,6,9,13 13:11 26:13 27:4,6,16 28:7 29:9,15,20 30:7 31:1,12 32:9 34:15,18,21 37:9,20 38:3,6,14 40:16 41:3,5,18 42:10,10 42:12,13 43:2 44:12 44:15 48:2,6 50:2,8 50:9,16,18,25 51:6 51:10,18,19,20,22 51:22 52:15 53:5,8 53:10,20,24,25 54:13,21,23 56:21	58:3 69:20 73:3 75:19 80:22 101:7 104:13 108:2 109:5 117:12 118:3,12,18 118:23 130:23 138:13 139:19 140:14 146:17,18 147:4,9 160:2,8,10 161:22 162:6 164:11 179:8 182:17 210:1 230:13 252:25 253:2,14 254:2,10 256:7,10 258:20 259:3 260:3 264:8 275:22 276:19 277:11,11,12,19 278:2,8,10,18 279:9 279:14,20 280:6 285:24 293:10 297:16 304:11,16 304:21 305:20,25 313:4 314:23 320:11 321:3 identifications 26:16 identifies 33:6 86:25 identify 90:15 130:5 274:3,6 identifying 63:21 160:5 235:16 274:14 identity 45:9,19,22 50:4,11 51:3,12,14 53:12 72:17,23 73:19 75:10,14 98:18 302:2 313:24 314:8 IDs 125:4,22 159:24 IH-35 3:12 images 254:14 impact 108:8 167:24 167:24 211:4 231:4 314:7 impediment 35:22,24 36:5 97:15	implement 31:19 32:8 108:7 167:17 186:15 implementation 77:9 78:17 170:7 174:3,6 176:23 178:17 218:8 implementing 133:14 135:1,13 implications 209:22 important 9:19,23 12:24 195:19 233:2 impose 219:1 impossible 48:10 improve 178:6 improved 238:3 273:23 274:2 improvement 13:12 22:11 32:22 33:5,9 177:12 improvements 274:3 inactive 125:14 inadvertently 46:14 197:12 213:9 inch 253:9 include 58:5 62:10 68:24 125:21 163:25 170:16 254:13 307:21 313:23 included 54:12 170:12 185:10 200:11 309:4 includes 138:17,20 138:23 197:5 305:20 including 130:20 138:11 170:20 244:20 incomplete 279:5,6 incorrect 216:4 279:3 increase 175:10 326:5,8 indefinite 144:17 independently 44:15
---	--	--	---

JOE PETERS

4/30/2014

22

265:5 indeterminant 169:10 INDEX 5:1 Indian 278:20 279:8 indicate 94:15 258:17 285:10 294:20 330:2 indicated 122:16 126:23 258:21,23 269:2 indicates 111:15 126:17 191:9 255:25 indicating 41:13 individual 16:19 31:8 31:14 34:14 35:13 36:17,23 37:10,14 38:5 39:3 47:8,12 48:15,21,21 49:5,9 49:18 52:2 55:10 58:2 71:23 73:6 74:3 75:9 76:12 89:9 98:9,17 99:6 99:25 100:13,23 101:18 102:6,12,21 103:15,16 104:11 104:16,22 126:18 140:18 144:10 146:16 179:6 183:8 188:25 201:23 202:11 204:25 227:4 228:9 242:7 242:11 259:5,13,15 259:16 262:25 263:2,4 274:11 285:6 individualized 244:14 individually 48:11 203:18 233:12 individuals 22:2,17 22:22 43:21,23 44:3 44:8 46:9 53:2,4 61:8 64:19 70:22	75:4,13 96:5 97:8 97:23 110:9,12 125:22,22 126:6 128:23,23 143:24 144:24 145:4,24 150:16 251:10 252:9,14 264:4,7,22 271:4 284:1 310:16 310:20 311:7 322:6 322:13 individual's 38:22 39:14 50:4,11 51:2 54:18,19 55:22 73:18 75:10,14 ineligible 252:11 255:25 256:13 257:16,19 infirm 204:9 inform 115:9,16 259:5 information 27:19 28:12 30:8,13,14 31:6,11 60:5,12 61:23 69:20 70:20 98:19 101:24 105:18 106:25 107:5 109:11,13,17 111:4 112:22,23 113:3 115:25 116:1 116:9,16,19 117:1,2 117:3,6,7,8 118:2,7 118:10,17,22 119:11,14,21 120:1 120:9,11,17 121:9 122:14,21,23 123:23 124:6 128:7 132:9,15,15,23 134:9,16,20,21 136:13,17 137:17 137:18,20 138:10 138:25 139:19 140:4,9,11,16 142:4 142:24 143:17 145:20 146:3 149:4 149:6,11,15,19,23	151:1,9,12 152:5,7 152:11 153:7,15 154:11,24 157:7,12 158:13,21 159:3 161:23 162:3,10,13 168:20 176:20 181:11 186:18 187:1 197:25 201:24 206:5 226:19 250:19 253:12 263:5 272:19 279:4,6 280:11 281:7,24 283:10,20 304:4 305:9 312:19,24 313:5,23 315:5,12 315:17,19,21 316:23,24 318:4,9 319:8 320:5,17,22 321:16,18 328:17 information-techn... 123:21 informed 64:19 119:20 264:17 270:3 328:19 Ingram 7:11 225:6 289:12,15,21 Ingram's 224:9 initial 170:12 181:10 239:21 initially 45:11 185:12 223:1 225:21 247:4 initiate 226:13 initiated 266:22 initiative 225:17 227:8 228:5,8 initiatives 227:24 input 113:13 inquiries 234:11,14 235:11,20 241:10 inquiry's 234:18 inside 286:20 insist 262:24 insofar 80:8 instance 1:14 115:24	116:8,16 instances 46:19 instruct 104:1 112:5 130:4 131:17 226:19 instructed 55:12 255:16 instruction 244:22 instructions 189:15 307:17 instructors 274:9 instructs 17:13 insufficient 89:4 91:6 insurance 53:17 304:12 intelligence 13:13 22:12 intending 290:11 interact 244:23 interaction 62:10 interactions 67:1 322:5 interest 95:5 269:2 interested 288:8 333:5 interface 43:17 interfere 216:11 interfered 210:22 interlocal 5:20 81:20 81:25 82:21,23 83:2 83:11,17,21 internal 208:23 209:16 215:1 323:21 internally 211:8 Internet 240:11 241:11 315:10 interpretation 84:14 interrupt 10:2 interviews 88:12 95:3 intimate 23:18 introduce 8:13 introductions 238:15 invest 177:19 investigating 23:25
--	---	---	--

JOE PETERS

4/30/2014

23

investigation 15:14 67:12 investigations 191:4 310:15 involve 134:12 299:25 involved 80:6 158:12 168:21 184:9 188:3 223:16 226:10,11 268:23 involving 284:9 in-depth 239:12 in-person 36:19,25 248:8,14 266:2 issuance 7:4 13:10,11 28:4 37:18 43:3,25 48:13,14 53:12 58:9 67:18 76:16 80:16 80:24 81:1,5,8,12 81:15 82:4 85:9,10 85:11 93:2 95:8,10 95:17,25 108:9 175:5 233:7 234:24 235:4,13 236:8,16 242:8,12 246:22 249:17 251:15 255:21 267:1,20 268:7,20,23 276:20 280:25 286:21 293:19 295:9,13,18 321:2 322:7 326:2 issuances 322:3 328:17 issue 29:15 37:8,8 39:2,8,25 40:13 67:6 71:13 72:10 80:19 126:19 160:3 160:8,9,10 166:13 166:20,25 167:10 174:23 181:15,17 182:3,9 188:14 192:7 208:19 218:22,24 235:7 240:21 249:13,13 249:14 252:13	254:10 255:23 256:17 262:15,18 270:12 271:20 295:9,21 296:3,6,25 297:11 301:1 308:2 319:16,19,19,21 321:10 326:23 327:10 issued 34:14 36:18,24 37:6,15 38:18 41:3 45:11 47:17,19 49:5 54:25 57:1 66:18 69:14,21 70:2,8 75:9 125:13 134:18 144:7,8 164:11 169:9,9,15 246:18 259:11,25 263:12 278:8 280:1,4 284:23 297:25 305:1 319:12,15 322:16,25 issues 96:21 101:25 102:1 104:13 116:12 128:1,3 130:1 131:15,25 159:23,24 181:13 184:13,13 185:21 208:20 210:4 240:25 321:21 issuing 42:21 43:1 56:5 75:11 135:4 168:22 210:1 243:13,17 245:25 253:6 254:8 266:8 266:12,15 271:14 272:9 273:9 276:6 287:17 290:8 296:16 321:9,16,18 item 167:4 174:16 217:5 259:1 262:14 items 102:2 103:24 167:4 i.e 256:1 I872 278:21 I873 278:22	<hr/> J <hr/> J 2:3 305:21,24 Jackson 5:24 88:18 Jane 56:7,8,9,16,17 57:1,2 Janie 6:10 32:18,21 57:1,2 197:5 January 113:4 114:17,19 138:14 Jennifer 2:15 8:22 238:15 301:18 jennifer.clark@ny... 2:18 Jersey 3:2 jest 218:7 JoAnn 220:21 JoAnna 245:7 job 176:22 184:10 246:7 331:14 333:17 Joe 1:10,13 5:3 8:2,9 18:9 213:8 330:25 331:3,12 332:14 John 56:7,18 110:8 127:10 joining 9:7 Jones 56:7,9,17,18 Joyce 7:11 289:12,19 Jr 3:16 judge 303:13 July 135:8 213:8 jumping 189:11 208:12 June 184:7,8,10 216:13,15 246:1,4 251:1 254:18 255:1 267:4 jury 112:13,14,18 113:6 121:14,16 124:4,6,8,11,16,17 124:20,23,25 125:2 125:21 126:1,5,9,13 128:3,22 129:3,4,18 129:18 132:8 134:23 135:2	148:10,12 149:4,6 149:19 152:6,9,12 158:21 320:10 Justice 2:5,16 16:5 <hr/> K <hr/> Karen 110:7 Katherine 282:11 Kathleen 3:21 9:5 kathleen.murphy... 3:23 keep 23:5 171:3,7 232:23 237:11 281:3 keeps 292:21 Keister 3:15 9:3,3 18:8,11,17,20,23 19:9 23:8 29:11,13 30:16 33:17 61:16 62:11,15 70:9 73:11 74:4 77:16 79:11,18 80:3 83:6 89:21 90:14,22 93:25 97:11,17 98:4,13 99:1,9 100:16 101:1 101:5,13,23 102:9 102:19 103:12,18 103:21 104:4,8,25 105:12,13,16,20,23 105:24 106:6,16,19 107:17,22 110:1 111:1,21 112:20 113:7 114:3,6,12 115:11,18 116:2,11 116:21 117:20 118:4,13 119:5,12 120:5 123:3 127:19 127:22,25 128:8,25 129:6,25 130:7,13 130:16,25 131:6,9 131:11,20,23 132:10,17 133:17 133:23 134:11 135:17 136:4,8 139:3 140:8 141:2
---	---	---	--

JOE PETERS

4/30/2014

24

142:5,11,19,22 143:5,19 146:12 147:12,14 153:23 158:9 163:3 187:15 195:2 197:10,15,20 198:8 201:5 208:4 209:7 212:9,12,15 212:20 213:1,6,20 214:6 223:6 226:15 230:5 247:12 249:1 250:24 292:21 293:7 294:16 308:23 317:13 318:20,22 319:2 325:17 329:1 Keith 7:11 289:12,15 289:21 Kelly 3:5 8:18 189:9 kelly.dunbar@wil... 3:9 kept 236:21 247:20 315:21,21 Kerrville 15:12 kick 292:25 killing 223:6 Kim 1:16 4:5 332:11 333:12 kind 55:10 69:7 117:24 177:2 231:2 276:1 296:11 313:19 317:18 knew 23:22 43:25 168:19 270:24 know 9:13 11:8,18,23 16:24 19:18 31:11 32:13 40:10,14 42:4 44:21 57:14,22 58:16 64:3,9,10,17 64:18 68:7,15,18,21 71:16 72:3,16,22,24 72:25 73:14 75:15 79:9,15 80:2 83:15 87:23,24 88:1,1,4,5 88:7,11 90:24 94:22 95:2,22 100:3,7,10	102:14 105:8 109:3 109:20 112:3,7,7,10 112:17 114:22,24 115:14,15 120:14 120:25,25 121:11 121:18,19,22,25 122:13 123:12,17 123:22,24 125:3,10 125:24,25 126:4,5,9 126:15 127:22 128:8,13 132:24 133:12 134:6,14,15 134:20 137:6 138:25 142:7 146:14,16,25 149:25 150:3,23 151:19 152:13,18 152:19 153:9 155:15 157:3,10 158:9 159:12 162:11,12,20 164:24 166:2 168:12 170:9 172:14 174:10,15 176:12,14,16 177:4 177:21 178:4 179:13 181:5,25 182:11 183:7,9,18 184:5,16,22 186:2 186:16 187:4 188:10 189:10,14 190:19 192:2 193:4 194:14,17 195:10 196:18 199:20 200:21,22,22,25 204:6,7 209:3,6,7 209:20 216:6,23 220:2,8,11 222:2,24 223:14,17 224:2 230:1,3,5,6 233:18 235:5,18 236:5,18 237:10 242:21,23 243:4 245:1,2,4,4,5 245:18 246:20,24 247:14 248:6,21,23	248:24 249:1,2,22 250:7,8 251:20 254:5 258:16 261:24,25,25 262:11 263:9,10,11 263:23,25 264:12 264:14,19 265:6 266:17 267:19 268:22,24 270:3 271:13,17 272:23 273:13,17,20,22,23 274:11 275:15 276:7,9,13 277:1,2 277:5 278:25 280:11,16 281:1,23 282:6 287:20 288:5 288:12 289:3,5,15 289:20 290:10,12 291:1,17,18 292:10 292:12 294:1,18 296:24,24 297:24 298:13,15,22,23 299:2 300:6,18,24 301:1 302:22 304:8 304:10 305:6 306:1 306:11,18 307:11 311:22 314:8,11,21 316:5 318:12 319:16 322:8 326:19 328:8 knowing 62:8 168:22 knowledge 10:10 18:17 23:18 28:10 28:11 31:6 36:6 62:14 68:10,20 70:5 79:7,16,24 86:13 99:5,6 106:2,12 111:25 112:3 113:24,25 114:7,25 116:13 120:1 126:13 131:4,8,12 131:13,19 133:21 134:1 157:23 158:3 159:11,20 161:11 167:2,10 179:4,16	181:23 188:21 231:12 235:2,19 239:9,13 240:5,8 262:5 270:23 knowledgeable 150:25 239:2,7,18 239:20 240:8 known 73:2,9 94:21 142:2 knows 225:2,4 Korea 15:16 KS 331:14 333:17 <hr/> L L 2:20 3:16 label 250:1 labelled 306:19 lack 90:9,21 105:6 108:11,22 109:14 119:3,15 201:6 325:5 lacking 104:11 164:23,24,25 lacks 101:18,18 102:6 106:1 Lamar 3:22 language 33:7 88:6 88:11,12 95:1,2 209:19 288:19,23 large 177:14 217:18 largely 217:24 larger 67:13,19 175:7 215:22 267:7,9,10 285:16,19 launch 225:18,19 law 1:18 14:24 15:3 16:6 26:18 63:25 67:5,9,12,23,25 68:6,7 69:14 70:2 174:21 175:24 176:5 196:13 209:24 217:15,18 217:21,25 218:2 232:12 261:22 314:1 326:23
---	--	---	--

JOE PETERS

4/30/2014

25

lawful 45:14,15,18 47:7 52:19,20 146:8 253:22	155:17 156:1 165:1 168:10 172:24 177:10 182:1 208:18 229:15 231:7 327:9,11,12	124:22 125:2,5,12 125:13,15 126:7,10 130:22,23 132:14 133:16 134:21 135:3 137:12 138:12,13 139:8,18 140:14 141:16 144:4,7,8,12,13,14 144:19,20 145:3,19 145:25 146:17 147:3,9 148:9,11,13 148:16,21 149:3,11 150:2 151:10,12 152:21,23,25 153:19 154:9,20 155:2,5,10,11,18,19 155:20,22 156:4,7 156:11,16 157:9,21 158:14,17,18,22,23 159:2,6,13 160:15 160:19,22 161:14 162:22 163:6,10,14 163:16,20,24 164:3 164:16,23 165:4 168:3 169:21 172:5 173:1,4,9,12,14 175:19 176:3,11 177:12,14,23 178:7 180:3,8,11 184:21 184:22 185:24 188:5 190:9,18,23 191:10 192:20,24 193:18 195:6,20,21 198:14 201:17 202:12,13 206:3,12 206:21 211:2 215:16 217:17 232:3,5,9,23,25 233:5,6,7,12 237:19 237:20 240:23 241:1 243:5,9 247:1 252:10 253:16,19 254:10 256:5,14,15 256:17,20,21,24 257:5,14,19,21,25	258:2 259:4,11 260:5,6,10,14,17,17 261:3,5,23 262:1,7 264:17 278:7 283:11 284:10,17 286:5,8 296:3 297:13,15,22 298:11,16,18,19 299:13 300:8 304:13 305:21 314:22 316:21 317:6 318:12 320:11,13 321:23 321:24 326:13 licensees 45:15 licenses 37:20 43:1 46:9 48:2,5,9 51:5 67:6 80:20,22 82:13 92:6 124:9 125:11 143:23 145:3 146:20 163:25 218:21,22,25 252:14 254:4 264:5 264:22 license-to-carry 121:4,6,8 licensing 13:10 16:15 lieu 99:25 100:5 104:18 life 261:17 light 6:22 151:6 229:1,1 275:23 276:11,13 328:24 limit 41:23 limited 84:6,11,17,17 84:19,21,22 144:3 144:15 limits 308:4 326:9 Lindsay 9:4 Lindsey 3:16 line 62:4 182:22 189:20,23 217:5 246:14 251:2,7 252:5 258:7 284:16 285:2,5,8,12,12,13
lawsuit 26:1	legislature's 105:4 107:4		
lead 200:18	legitimacy 204:11		
leaders 90:8,16 172:24 238:1,1 288:7	letter 18:14,21 19:7 136:5 188:6,8 269:4		
leadership 205:5	letting 128:13		
leading 208:17	let's 68:22 104:6 106:10,19 149:3 158:25 197:15 235:9 294:25		
leads 291:15	level 13:15,17 22:2 48:1,3 83:5 179:12 179:13,15 192:9,18 203:18 206:1 245:14 266:20 327:13,14		
League 3:4 8:19,20	liaison 16:10 29:1		
learn 16:21	license 13:7,13 14:4 14:10 16:12 19:20 22:5 37:5,8,16,17 37:19,24 38:18,23 39:1,14,19,21 40:1 41:2 42:10,12,20,21 43:9,24 44:16,23,24 45:1,8,11,21 46:4 47:17,22 49:10,12 49:16,19,19,23,24 50:2,6,14,20,24 51:2 52:4,15,23,24 53:5,21,23,25 54:19 56:8,13 58:10 59:6 59:16 62:2,23 63:17 63:19 67:10,16 72:24 74:20,23 75:5 78:14 85:9 86:18 87:14 92:6 108:9 109:16 110:19 112:8,18 113:15 117:19 121:3,10 122:2 124:12,14,17		
leave 15:18 272:4			
Lee 110:7 129:15			
left 176:24 314:5			
legal 3:11 4:6 30:17 36:5 73:12,13 83:7 91:21,23 97:14,18 144:4 146:12,13 156:24 157:2,5 301:12 316:16 332:20 333:13			
legally 144:16 156:11 233:21,22			
legislation 80:17 83:24 84:14 165:3 209:20 244:4			
legislative 16:10 29:1 105:19 106:14 107:1,12 168:14 182:8 184:13 208:17 320:7 326:22			
legislator 115:8			
legislators 105:5 107:5 114:20 115:4 115:10,16,24 116:9 116:20 117:4 236:12,16			
legislature 83:25 106:13 107:9,12,25 108:2 116:17 118:2 118:6,11,18,21 136:14 137:5,7			

JOE PETERS

4/30/2014

26

290:2,3 330:2 lines 175:4 200:9 205:7 209:23 240:7 240:11 243:13 284:1,5,8,12,14 308:9 list 40:15,19,24 42:2 43:11 54:3 94:10 110:17 124:9 126:1 126:5 129:3,10 198:13 253:1,13,18 253:20 272:7 278:11 317:21 listed 41:16,17,24 186:1 238:22,25 278:5 279:19,21 305:20 listing 110:15 315:8 lists 302:2 litigation 20:1,13 142:24 186:3,23 209:4 230:2 236:2 248:22 311:7,21 little 23:20 178:25 197:9 208:9 211:12 238:18,24 242:25 280:21 301:18 325:16,24 live 121:13,17 134:22 134:25 135:2 199:15,20 200:22 201:11 204:14 lived 200:14 203:19 living 207:9 LLP 1:18 2:10 3:1,7 lobby 174:5,7 local 16:6 48:3 55:13 63:25 68:6 82:2,16 82:24 83:4,5,13 89:4 95:21 171:20 172:23,23 173:19 173:20 174:19 236:9 238:1 241:12 266:19 286:24 287:1,2,3 288:7	300:22 301:1,1 localities 82:25 locate 186:7 192:10 192:11,19 193:7 206:14 located 87:4 190:16 194:9 199:7,9 241:2 277:9 locating 194:5 196:7 location 86:21,22,25 97:2,10 101:21 102:16 103:2 104:13 171:18,20 171:24 194:7,18 199:21 205:10,19 315:16 locations 171:22 172:25 189:21 193:25 194:2 205:22 269:13,22 272:8 292:15 lodge 237:23 logged 235:22 241:20 242:2 265:6 logging 241:23 logs 242:19,21 long 14:21 24:18 64:7 86:20 138:4 171:3,7 181:3,5,7 260:8 309:5 312:1 longer 39:22 58:20 138:4 175:4 180:21 217:3 260:7,9 261:13,17,21 look 18:20 28:10 29:5 29:25 34:7 36:8 40:5,17 44:11 51:9 53:7 54:10 57:23 69:12 75:16,24 77:3 110:13 177:7 187:6 207:17 230:8,8 251:18,25 266:24 270:9 276:16 277:25 300:3,7 310:22 312:9 316:9	323:21 looked 142:16 179:2 193:24 265:25 267:15 268:2 275:18 310:23,25 looking 19:7 43:5,6 98:15 136:6 142:20 196:6 199:24 203:9 203:19 205:24 212:4 214:22 220:12 278:16 292:22 299:4 318:7 looks 47:23 60:23 207:13 250:20 251:21 286:23 305:22 loss 180:7 lost 34:17 35:4 37:3,4 37:11 76:3,10 256:24 257:24 258:1 297:13,15 298:2,10,11,16 lot 18:18 27:18 207:13,17 214:6 218:18,19 224:2 228:2,3 253:12 313:16 317:5 lots 15:3 189:10 191:25 214:25 low 324:5,6,13,16,17 324:23 326:19 LRS 47:22 lucky 56:18 Lunch 147:12,15 Lynn 245:10 274:12	mailers 86:5 maintained 64:7,13 148:15,20 155:5 158:14 160:12 266:5 maintains 150:24 256:2 major 128:22 177:23 majority 13:25 major-general 222:12 makeup 152:11 155:1 making 226:6,17 231:14 240:19 303:17 MALC 8:22,24 238:16 man 87:9 management 218:2 255:6 manager 21:15,22 22:8,13 123:24 188:3 263:7,7 managers 22:9 187:25 255:11,12 255:16 299:11,18 299:20 mandate 166:4 188:22 210:14 211:9 216:3 326:22 mandated 181:25 327:9,12,12 mandatory 174:22 manned 171:16 manner 12:13 manpower 167:6 manual 7:2 276:18 276:24 277:3 man's 24:9 MARC 1:3 332:3 march 236:6 Mariana 278:22 279:11 mark 17:17 176:17
--	---	---	--

JOE PETERS

4/30/2014

27

186:9 marked 17:18 28:16 32:2 60:17 81:17 88:14 98:2 109:24 123:2 145:8 187:14 196:25 205:12 211:16 219:8 238:18 245:23 246:3 250:23 251:1 268:12 273:2 275:20 276:17 277:15 285:22 289:9 293:6 301:17 302:20 322:20 marking 302:18 marriage 56:22 76:9 316:21 317:6 318:12 married 55:23 56:7 56:18 306:22 316:15 Maryland 15:15 master 148:14 Mastrachio 220:21 match 54:14 109:13 110:15,16,21,25 111:15,20 112:19 113:10,21 114:9,17 114:19 115:5,6,10 119:22 120:18 122:4,7,15,16,19,24 124:6 126:22 129:5 132:8,20,22 133:1,2 133:11 140:25 307:13 317:3,5 318:10,19 matched 110:20 113:4 133:10 159:11 matches 278:18 matching 110:18 111:4 121:20,22 132:7,13 135:16 158:6 255:24 material 270:23	307:19 materials 275:16,17 304:16 307:17 maternal 308:16,25 309:14,20,24 math 201:4 matrix 292:14 matter 8:11 23:15,16 24:13,22 25:2,15 31:13 43:1 63:5 74:1 85:22 93:24 94:3 175:12 193:10 281:16 283:12 299:14 matters 24:19 25:3,4 25:5,12,14,17,18,20 26:3 ma'am 248:20 McBride 14:20 McGeehan 110:6,7 MDILs 323:25 Meade 15:15 mean 14:3 17:1 25:12 35:15 40:9 44:3 45:5 47:22 71:1 84:24 89:6 107:17 107:19 109:7 120:14 122:8 127:17 128:10,12 130:2 141:20 150:17 152:10,16 161:4 179:12 182:6 186:14 187:19 199:3,16 204:4 216:16 221:15,23 222:17 243:24 246:21 248:5 255:15 256:23 302:12 307:5 309:7 309:8 314:8 324:8 meaning 191:10 means 14:10 40:10 75:18,21 127:18,18 127:20,22 199:4,6 199:14 200:12	217:2 243:25 256:3 256:4,25 258:7 270:19 276:13 meant 166:2 233:9 284:11 measure 273:14 mechanism 237:16 297:2 media 7:13 61:23 86:1,1,2 87:22 88:2 88:6 238:5,6 239:19 239:22 240:12 270:6 281:13,14,20 282:4,7,10,19 288:19,23 293:9,22 293:24 315:22 medial 240:12 medication 12:6 meet 20:17 178:2 248:10 252:25 253:2 meets 165:2 257:7 mega 67:14 177:10 178:11 193:22 194:1,1,10,19 196:3 199:8,9 200:17 205:19,22,22 member 193:17 members 155:16 156:1 235:3 242:7 242:11 memoranda 80:19 memorandum 80:25 166:7 179:1 memory 21:6 memos 255:6 Mendoza 110:8 127:10 mentally 23:19 mention 86:16 278:20,22 mentioned 78:4 179:1 192:14 209:1 241:19 243:2 251:9 271:8 274:18 277:6	299:5 313:17 mentions 234:25 message 283:2 met 23:23 271:5 method 202:4 metric 199:22 201:12 metrics 207:3 middle 11:1 126:17 238:23 258:4 290:3 308:13 309:12,18 miles 206:20,25 207:4,4,9,13 military 15:17,18 53:19 54:4 68:16 222:10,14 million 48:9 199:15 199:16,20,24 201:8 201:10,17 211:1 mind 11:9 51:20 149:2 174:13 224:1 mindful 154:3 minimal 231:19 minimum 177:14 245:20 minority 86:7 mins 332:23 minute 18:8 219:15 minutes 313:12 317:4 323:11 mischaracterizes 70:10 102:20 111:22 112:21 114:13 115:12,19 116:3,22 117:21 118:5 132:18 141:3 142:6 143:6 misleading 12:23 79:20 mismatch 318:2 misrepresented 62:9 missed 118:7 misses 249:5 mission 215:5,12,20 216:3,11,12 217:10 217:14,16,18,19
---	--	--	---

JOE PETERS

4/30/2014

28

221:13,15,16,17,19 222:18,22,25 223:3 223:21 231:18 232:9,23,25 missions 193:11 210:23 222:13 232:1 misspoke 271:22 misstates 105:1 120:6 139:3 mistake 309:23 mistaken 151:23 misunderstood 118:8 156:21 224:23 mitigated 215:21 mobile 5:20 6:22 7:12 59:7 68:1 70:22 71:3,5,7,9,22 72:7,9 80:13,16 81:6,9,12,21 85:6 85:22 86:20 87:1,4 87:6,13,20 88:22 89:4 90:10 93:14 166:15 169:22 171:10,13,19 172:1 172:7,17,21,24 173:3,5,11,16,18,24 184:16,22 185:3,4,5 185:13 187:18 188:13 190:1 206:15,17 214:25 215:18 216:16 217:3 220:14 222:8 223:10 224:3,6,19 225:4,13,18 226:13 226:25,25 227:8,10 227:22 230:20,21 237:6 269:13,23 270:12 275:23 276:11,13 286:5,6,9 286:18 287:16,18 287:24 289:12 290:19 291:8 292:3 292:7,17 321:17,20 322:6 325:14 326:4	327:14 mobiles 216:1 mobilizations 221:18 modeled 42:5 modeling 43:11 modified 178:13 275:12 moment 238:25 251:19 moments 311:15 Monday 20:20 monetary 175:1 money 167:8,17 169:13 177:11 232:23 259:3,6,9,14 259:21,22 260:2,9 261:15 282:14,17 327:2 monitored 295:23 296:17 monitoring 295:24 295:25 296:10 month 39:4 312:3,4 months 14:22 80:6 159:13 Moon 123:11,12,13 127:10 moral 294:11 Morgan 262:4 morning 238:15 302:4 306:17 mother 203:5 mother's 307:25 motor 24:16 move 68:22 78:12 80:13 148:1 Moved 15:23 moving 14:7 multiple 308:7 Murphy 9:5 Murphy-Darveau 3:21 130:11,14 mutilated 76:4,11 Myers 274:12	<hr/> N <hr/> N 2:1 331:1,1 NAACP 2:14 8:23,25 238:16 name 8:7,10 18:24 27:20 41:13,14 51:16 54:12,14,20 54:23,24 55:12,22 55:23,24 57:2,15 76:5 126:18 137:23 140:21 150:11,11 151:14 160:5 211:21 238:15 243:15 267:12 306:23 307:25 308:1,13,15 309:10 309:11,12,17,17,17 309:25 310:1,5,6 316:14,15,16,22 317:3,7 318:2,10 322:13 named 197:4 310:16 310:20 311:6 names 55:8,17,19 96:18 168:5 306:25 307:2,3,4,13,21 308:3,4,9,16 309:4 309:16 317:5 318:15,19 322:18 naming 307:6 National 60:12 naturalization 51:17 nature 32:25 nay 228:20 near 196:8 199:5,7,9 286:21 necessarily 43:20 46:2 90:4 173:13 183:6 233:20 241:8 242:15 291:19 296:23 302:6 304:22 327:7 necessary 52:7,13 93:1 need 10:10,16,20	11:1 17:3 33:6 39:11 65:14,19 73:7 90:17 130:17 167:6 182:17,19 193:1 194:20 212:23,24 222:24 229:12 258:18,19 259:5 281:5 305:2,12 306:3,12 317:6 325:20 needed 177:9 183:12 206:16 229:22 261:4 318:8 needs 9:18 33:7 71:23 73:6 193:12 202:13 217:9 231:2 260:2 292:24 negative 122:24 221:20 222:7,17,23 223:3 neither 333:1 never 54:4 210:3 new 2:17,17 3:2 24:3 24:4 37:11 49:18,25 74:13,16,19 75:2,3 76:16 153:19 192:10 206:14 219:1,4 255:3 297:16,18 newer 49:22 news 315:10 nine 16:8 89:19 nomenclature 225:10 308:12 non 50:15 noncitizen 52:21,22 52:24 144:8,12,15 144:17 147:3 162:15 noncitizens 145:24 146:22 147:8 noncompliance 77:5 nonresponsive 99:1 non-DPS-affiliated 287:22
--	--	---	---

JOE PETERS

4/30/2014

29

non-photographic 50:15,21 non-U.S 146:11 normal 308:21 normally 304:19 308:25 north 3:12,22 21:22 Northern 278:22 279:11 notaries 70:21 71:24 notarization 70:14 70:17 72:23 notarize 72:18 73:6 73:10 notary 70:14 71:17 71:19,24 72:4,5,11 72:14,18,18,20 73:2 73:4,6,9,10 note 6:8 108:6 117:3 142:16 168:14,18 168:24 179:18,24 180:5 186:13,22 208:25 210:6,9 212:6 noted 331:8 notes 188:11 211:11 notice 5:14 16:24 63:24 78:24 85:21 85:24 86:21 87:1,19 87:24 88:22 89:4,19 90:9,21 91:5,5 93:22 94:1,4,6,9,13 94:17 130:15 235:13 notices 63:10 66:13 66:17 86:24 263:18 263:21 264:4,7 noticing 197:11 notification 76:3,6 86:4 88:11 115:7 141:11 180:20 238:19 notifications 88:4,5 notified 180:18 264:21,23	notwithstanding 38:13 November 127:12 216:8 number 1:4 5:12 17:20 18:4,5 27:11 27:15 69:13,15 70:3 70:7 92:9,15 99:18 105:6 108:10,21 109:14 110:17,19 110:20,20,21 119:3 119:15 124:19 125:12,13,15 126:19,19 141:19 141:20 151:15 170:16 172:13 187:11,16 198:15 201:8 234:18 245:20 283:13,15 283:20 313:12 330:2,2 332:4 numbered 1:15 numbers 18:12,13 110:15 124:25 187:6 207:7 234:22 numerous 269:1 NW 2:6 3:7 NWB 2:6 <hr/> O <hr/> O 331:1 OAG 197:24 229:15 oath 12:22 71:13 oaths 70:23 72:6,10 72:15 object 17:11 70:9 73:11 74:4 79:11,18 89:21 90:14,22 93:25 97:11,17 103:12 116:21 119:5 120:5 132:10 133:17 134:11 135:17 142:5,15 195:2 objected 212:15	objection 29:11 30:16 61:16 62:11 83:6 98:13 99:1,9 100:16 101:1,5,13 101:23 102:9,19 103:21 104:25 106:16 111:1,21 112:20 114:3,12 115:11,18 116:2,11 117:20 118:4 119:12 128:25 129:6,25 132:17 139:3 140:8,8 141:2 142:11 143:5 146:12 201:5 208:4 212:17 213:19 294:16 308:23 317:13 318:20 325:17 objections 62:15 80:3 113:7 118:14 198:2 223:12 obligation 91:21 210:11 219:1 294:2 294:9,11 obligations 91:23 obtain 37:11 46:3,10 49:11 50:8,17,22 52:3,13,14,22,22,24 54:21 56:20 61:9 76:13 93:13 96:5 97:9,10 100:14,24 101:11,19,21 102:8 102:8,17,22 103:1,8 147:3,8 157:4 164:3 281:4,4,5 319:9 obtained 157:18 161:16 323:6 obtaining 29:17 36:20 37:1 42:3 61:9 100:15,25 101:11 179:6 280:2 280:5 324:18 obvious 19:22 obviously 18:18	103:24 189:17 315:15 occasion 142:13 occasions 59:20 109:19 112:14 236:18 occur 66:2 96:12 180:16,17 187:24 188:7 occurred 46:25 111:7 180:19 226:17 October 5:24 88:19 89:11,13,13 169:25 268:16 273:5 276:22 offender 149:1 176:1 offer 203:13 offered 93:3,6 225:20 225:22 258:20,24 offering 321:12,15,19 office 3:17 15:7 17:1 17:2,9,9 20:21,23 23:25 32:19 33:11 35:12 36:3 37:14 59:7,7 61:23,23 62:2 64:2 67:15 71:10,23 76:13 84:13,23 86:1,2,25 87:3 88:18 94:6,18 95:23 101:20 102:22 103:7 109:17 110:25 113:21 114:23 117:2 120:22 133:3 137:2,3,10 140:4,11 140:24 154:10 157:25 158:5 169:21 173:1,9,12 175:23 176:15 177:15,19,24 178:14 182:12 183:11 184:22 185:1 187:20 188:23 189:25 190:3 191:13,23
---	--	---	---

JOE PETERS

4/30/2014

30

192:10,19 193:8,13 193:15,17,21 194:5 194:9 195:6,10,11 196:19,19 198:16 198:16,17,17 199:5 199:18,25 200:5,23 201:15,23 202:1,13 203:18,21 204:11 205:1 206:1,12,20 206:21,25 207:10 214:20 215:25 223:19 226:8 227:23 229:15,17 229:18,21 231:13 236:24 237:19 238:5,6 241:4,12 250:13 252:16 255:7 263:7 266:19 274:21,25 275:2 281:13 284:17 285:9 287:11,25 288:3 289:18 293:22 297:16 299:19 300:1,8 305:7 306:3 310:14 317:23 320:7,23 321:1,20,24 328:19 333:6 officer 332:15 offices 1:18 22:5 46:7 67:5,8,10,14,19,22 70:14 71:15 72:13 80:14,19 81:6,9,15 84:10 85:6,8,16 92:6,17 93:24 94:2 94:10,15 95:8 97:2 172:24 173:4,14 175:2,7 177:14,16 178:13,17 189:21 189:24 190:8,9,16 190:18,20,21,22 191:8,10 192:4,11 194:7,18,19,21 196:8 198:14 205:10 206:3,14	211:2 214:25 215:4 215:22 216:17 218:21 241:3 245:19 283:25 284:12 285:16,17 285:19 286:5,8,17 286:24 287:1,3,9,16 287:23 299:5,6,7,12 299:21 300:22 321:17 official 41:14 72:6,10 72:15 136:15 176:8 181:22 officials 89:4 95:16 173:19,23 236:9,11 268:22 271:11,14 271:20,23 272:8,14 276:6,25 277:2 OGC 16:25 17:1 oh 36:12 58:7 64:22 65:19 141:19 161:6 169:24 270:4,6 271:19 284:13 304:10 311:9 327:20,20 okay 8:1,15 11:4,13 12:3 14:8,16 15:2,5 16:13,17 17:5,15 18:6,19,22 19:1,6 19:10,23 20:12,15 20:17 22:7,24 23:4 23:7,10 24:25 25:9 25:15,25 28:6,15 29:4,25 32:24 33:19 34:11 35:11 36:14 38:5 39:14 40:5 41:2,22 42:2,18 47:1 49:3,8 52:2 53:19 56:15,24 57:10,23,25 59:19 65:6 66:25 73:16 75:24 76:19,24 80:13 81:3 85:12 86:9 87:11 90:19 99:17,24 100:3	101:17 103:11 104:8 107:22 112:25 113:9,14,17 114:6 116:25 117:10 118:15 124:2 127:21 129:14,16 137:16 139:18 143:1,13,22 145:18 146:10,15 147:11 148:1,19,23 148:25 149:3,19 150:7,12,15,24 151:3,5,17 152:5,14 152:25 153:6,10,18 153:24 154:2,19,23 155:4,10 156:3,7,10 156:13,21 157:7,11 157:15,20,23 158:21,25 159:8 160:7,22 161:9 162:3,9,15 163:1,8 163:18,18 164:2,5,7 165:4,8,12,17,19,25 166:1,23,25 167:3 167:20,23 168:10 169:11,16 172:11 172:16 174:2,10 179:4,17 180:13,16 181:13,15 182:15 182:20 183:7,21,24 184:9 187:3,5,11,19 190:12,15,21 191:11,22 193:10 193:16,23 196:6,21 198:4,9,10 199:14 200:21 201:19 203:12 204:21 205:8 206:18 207:7 209:8 210:13 212:9 212:12,19,22 213:2 213:15,24 214:13 215:9,17 219:19 220:12 221:3 223:8 224:23 225:9 226:23 227:10	228:2 229:6 233:23 234:15,21 235:2 236:5,13 237:1 238:8 239:6,11,14 239:17 240:2 241:6 242:5,21,24 243:11 243:15,19 244:7,20 245:12,22 246:2,20 247:11 249:10,15 249:25 250:8,19,22 251:13,19,24,25 252:4,20,23 253:13 254:7,17 255:1,13 255:20 257:18,23 258:4,14 259:1 260:1,22 261:20 262:13 263:16 264:25 265:9,24 266:3,24 267:14 268:5,11 270:9 273:1 275:15 278:17 279:18,22 282:14 285:21 286:10,22 288:6 289:21 290:1,18 292:20 295:1 297:11 301:7,14 304:2,19,25 305:14 306:14,15,20 307:5 308:21 310:5,9,14 311:6,23 312:5,7,18 312:22 313:11 314:14,25 315:3 316:11 319:22,22 321:2 323:9,24 324:21 325:1,10 328:1 old 15:10 24:9 28:2 49:16 53:17 73:18 73:25 75:5,8,10 153:15 165:25 older 45:15 75:12 omission 279:24 once 33:15 34:2 47:16,20,20,20
---	---	--	---

JOE PETERS

4/30/2014

31

49:24 63:20 64:8 79:18 102:15 118:15 123:5,8 142:9 143:3 165:2 213:7 ones 18:23,24 65:2 87:7 149:2 279:21 282:8 293:22 316:7 319:12,14 one-on-many 248:12 one-on-one 248:11 one-time 230:17 one-way 24:3 ongoing 227:11 243:22,23,24 281:2 online 75:2 153:1,3,7 153:10 open 188:22 198:18 291:2,5,8 314:5 operate 270:25 290:19,20 operated 71:6,7 operating 86:21 167:20 operation 172:5 190:4 209:21 operational 172:6 232:4 operations 5:21 21:13,16,23 22:4,11 81:21 85:6,6,15 86:14 211:5 231:5 231:21 opinion 73:13 97:18 146:13 218:11 opportunity 78:20,23 93:12 147:23 202:21 249:7 258:2 297:23 opposed 76:16 254:3 opt 233:10 oral 1:8,13 332:15 order 10:9 12:2 31:18 41:13 52:8,9 52:14 63:10 72:18	76:13 96:8 101:11 102:8 110:24 111:20 120:19 129:4 137:3 142:13 149:11 177:8 178:6 193:11 245:14 256:19 259:6 260:1 287:7 298:5 304:5 305:2,12 314:17,22 317:9 318:8 ordered 185:15 316:22 317:7 ordinary 116:18 organizations 315:10 origin 150:17 original 30:6 41:10 41:12 74:24 248:14 285:12 298:9 313:4 316:19 originally 185:2 302:4 originated 184:17 Ortiz 3:10 9:1 301:12 Ought 213:23 outcome 333:5 outlet 281:14 283:23 outlets 283:21 288:23 outlet's 288:19 Outline 274:16 outlines 269:5 277:10 output 114:16 122:7 133:1 141:7,11,12 141:13,14,17 outputs 141:22 outreach 7:13 86:7 94:20,25 280:22 293:9,18,21,25 324:14 325:13 326:4,21 outside 102:2 103:24 112:4 116:12 130:1 130:14 131:13 282:2 286:16,17,19 292:18 300:17,19 outskirts 200:15	out-of-state 53:23 305:21 overall 172:4,5 208:11 oversee 13:10 oversees 34:4 over-65 149:13 owned 23:19 owner 171:23 owns 172:19 <hr/> P <hr/> P 2:1,1 3:5 packet 250:16,17 251:16 253:8,8 267:9,10,12,15 packets 250:11,12,13 page 5:9,12 29:4 73:17 110:14 124:2 126:12,12 127:5,5 128:19 136:3 197:21 238:21,23 246:13 249:15 251:13 252:21 254:8 255:20,21 258:4 262:13,14 263:17 264:25 265:1,2 269:5 272:5 272:5,6 273:11 275:5 277:9,19,25 282:7 289:11,25 306:19,20 307:11 312:9 315:25 316:2 330:2,3 pages 250:1 266:24 274:15,16 275:6 331:5 pages(s) 331:8 PAGE/LINE 330:4 paid 91:24 pains 331:4 panels 124:11 Panhandle 192:1 paper 330:2 pardon 115:14	Parkway 2:11 part 5:16 13:4 15:16 18:7 19:12,13,13 20:4 32:6 44:1 58:8 59:9 64:12 66:24 96:15 118:25 119:16 148:10 158:18,21,23 163:6 163:15,20 165:21 166:19 171:13 172:4,5 174:17 176:22,22,25 177:25 191:20 212:1,7,16,17,21 213:13,25 232:25 242:22,24 248:22 249:19 250:6 251:16,21 253:5 267:3,24 271:3,4 273:15 274:20 277:3 291:6 partial 164:21 participate 91:18,22 93:10 184:12 268:6 participated 168:8 participating 269:3 particular 20:6 21:8 30:13,20,25 94:17 94:18 98:12,12 112:19 145:16 189:22 207:25 232:8 235:7 247:15 262:3,21 265:25 269:19 282:23 287:11 327:12,14 particularly 207:14 231:24 281:21,23 328:24 parties 333:2 partnership 206:6 parts 215:6 261:17 party 24:23 25:25 310:16 part-time 84:23 pass 61:3 147:11
---	--	--	--

JOE PETERS

4/30/2014

32

189:2 225:6 294:23 301:8 319:23 323:10 passage 123:8 169:1 passed 29:2 80:17 109:21 111:13 142:17 255:7 passport 40:11,12 48:18,22,24 68:13 paternal 307:15 308:16 309:1,14,20 310:2 patrol 15:9,11,11,19 15:20 24:17 67:11 218:5 patrolman 25:24 Paul 21:9 140:2,3 pause 23:8 33:18 pay 200:16 225:24 259:3,14,21,22 260:3 penalties 12:22 331:4 pending 10:22,25 142:18 Pennsylvania 2:6 3:7 people 154:24 161:7 170:6 173:23 177:22 180:5,13,22 184:19 195:20 199:15,17,25 202:1 202:20 206:11 216:19 241:13 262:2 285:1 287:25 288:1 292:1 309:23 311:10,16 320:14 322:8 324:1 perceived 325:5 percentage 206:19,24 perception 63:10 67:1,3 perform 91:9,14 111:20 181:10 performed 111:16 141:8,17,22 168:1 period 44:20,22	120:15 121:2 123:5 125:6,13 180:23 185:14 periodic 299:11 periodically 66:3 243:25 perjury 331:4 permanent 227:14 permission 144:18 182:10 permitted 97:23 144:16 295:9,13 permitting 103:14 PERRY 1:5 332:5 person 26:19,21 29:16,16,19 38:18 45:20 53:11 98:11 101:8,10 128:5,14 150:13 154:24 156:23 200:16 239:1,7,17 240:5 252:22 255:25 256:2,4 258:8 259:2 262:22 278:8 282:10 289:7,7 309:16 320:18,25 personal 37:20 41:3 42:12 99:5,10,12 130:23 138:13 139:19 140:14 146:17,17 147:4,9 161:18,20,22 162:6 162:11,16,19,24 163:5,9 164:3,11 178:23 182:21 218:11 233:20 278:7 314:23 320:11 personally 25:25 107:8,18 personnel 14:1 93:7 93:9 167:1 178:19 265:8 270:13 persons 137:18 perspective 14:1 86:8	215:15 pertaining 283:17 Peters 1:10,13 5:3 8:2,6,9 13:5 23:11 105:17 128:2 135:24 158:11 189:9 197:1 198:10 205:13 211:17 213:8 214:17 219:9 238:14 326:18 328:22 330:25 331:3,12 332:14 phase 224:8,16,18,21 224:24 225:2,2,2,11 225:12 227:7,10,22 228:4,7,15,20 229:2 229:8,12,16 237:5,5 phases 224:5,12,14 225:1 phone 9:7 234:16,18 235:12,21 phonetic 245:7 photo 26:12,13,16,17 27:10,14 49:15,22 73:8 74:9,13,16,19 74:25 75:1,2,3 122:18 133:8 160:6 258:8 261:22 264:8 photocopies 316:20 photograph 49:25 313:17 photographic 50:17 73:3 108:1 109:5 117:12 photos 75:4 254:14 physical 194:21 203:16 physically 181:15 193:12 202:12 219:18 256:20 pick 281:17,20 288:19 picked 283:21 315:9 PICKERING 3:7 picks 281:12	picture 49:16 pieces 265:18 pilot 84:5,17 pilots 84:20 304:12 pinpoint 227:4 228:9 place 98:12,19 102:13 177:9 202:15 237:16,18 254:18 272:16 285:18 312:10,16 313:20 314:6,21 315:5,11 331:6 placed 177:16 places 175:7 248:2 287:22 288:1 PLAINTIFF 2:3 plaintiffs 1:3,14 2:9 2:15 3:10 8:17 9:2 301:13 311:7 332:3 PLAINTIFF-INT... 3:5 plan 6:19 65:23,24 231:6 273:4 275:10 plans 65:10 143:13 275:5 please 8:7 10:16,21 11:8 34:7 36:8 40:5 53:7 54:10 75:16,24 99:2 196:23 204:5 219:6 239:5 249:15 253:17 259:1 264:25 266:24 279:17 330:2,3 point 35:1 61:7 64:2 78:7 90:6,7 96:4 97:22 120:22 125:5 126:6 219:20 249:11 252:9,24 254:14,21 255:3,17 255:18 260:18 268:5 269:2 270:10 270:22 286:21 296:15 297:19 298:20 306:12,14 321:25
---	---	--	---

JOE PETERS

4/30/2014

33

police 175:23	post 289:4 300:14	144:5 146:9 173:1	184:25 191:2 238:5
policed 266:19	posted 299:12 300:17	184:21 253:23	238:22
policies 103:23 147:2	300:19	present 3:20 12:3	primary 32:18 44:12
147:7 304:12	poster 7:9 285:23	22:16 34:13 35:8	44:14 96:22 195:24
policy 13:12,15,17	299:3	46:9 66:4 67:5,9,17	277:10 278:1,4,10
32:22 33:5,9 53:17	posters 287:21	67:23 68:1,3 70:14	278:18 279:8 281:6
196:7,9,16 235:9	posting 299:23	71:22 72:7,11,14	281:9,10 317:11
252:25 253:3	postings 66:12	87:14,20 88:23	Princeton 3:2
254:18,21,22,23	post-passage 121:2	89:11,13,20 101:17	print 313:17
255:2,10,13 262:6	123:5,8	124:21 126:13	printed 287:2,6
263:11,20 264:11	potential 64:19	128:17 139:11	printout 7:5 276:1
307:16 308:15,21	122:17 141:15	140:13 144:18	277:18,23 278:1
310:10 326:14	171:22 200:11	198:25 278:4	279:17 301:19,19
political 172:23	215:15 216:7 233:9	322:25	316:10
politicians 288:7	potentially 41:19	presentation 276:1	prints 254:15,19
poorly 237:13	103:8,10 287:16	presented 111:22	255:6 287:2
population 177:7,8	PowerPoint 276:1	233:17,17 278:10	prior 11:16 16:14
177:17,18,20,21	practical 74:1 271:1	presenting 279:3	20:1,21 87:16 93:19
192:12 195:5	271:8	presently 97:8 98:21	108:1 112:15
198:20 201:2,10	practice 59:1,3 125:8	100:13,23	117:12 126:12
206:19,25	125:17 309:2,3	press 66:13,17 85:25	169:1 194:1,3,9,18
populations 192:16	310:10	88:1 94:14 239:21	194:19 195:16
282:24	precise 147:25	270:6 281:8,11,17	208:16 210:10
portion 201:1 266:25	preclearance 119:1	281:21 282:3	217:15 246:22
portions 21:17,23	119:17,23 120:2,8,9	283:16,19 288:15	255:21 266:9,16
position 13:5,9 14:21	120:16,25 130:10	288:20,22 315:9	268:21 328:24
16:12,14 123:20,22	130:12 134:24	pretty 128:4 274:24	priority 232:8,13
123:23 176:19	184:12	prevent 12:14 176:15	privilege 257:3
217:23 220:9	predecessor's 19:25	204:10,11 237:11	privileges 256:7
positive 122:23	predicting 323:21	297:4	257:4 259:11
possess 100:13,24	predominantly 88:25	prevented 296:21,23	261:10 298:3
117:15,16,18,19	prefer 290:18	previous 78:3 102:20	proactive 237:4,10
130:21,22,22	preferred 290:20	112:21 114:13	proactively 237:16
138:12,12	preparation 79:8	115:12,19 116:3,22	probably 13:24 16:7
possessed 120:20	136:21 239:15,23	117:21 118:5 120:6	23:13 24:7 32:17
possession 115:25	239:25 241:14,23	132:18 139:4 141:3	90:6 191:20,25
140:13 185:20	250:10 252:1 267:8	142:6 143:6 212:16	195:21 223:16
256:2,5 257:6	prepare 19:23 186:24	212:16	254:24 262:1
possibility 152:24	206:4 208:22	previously 20:13	292:13 306:18
246:14 297:5,7,9	prepared 18:2 19:5	23:12 28:20 83:24	312:4 320:24
possible 35:11 43:3	19:16,18 106:25	85:8 111:3 206:21	323:12
58:10 97:1,5 328:24	168:14 187:3,4,9	208:25 328:16	problem 96:22 102:5
possibly 43:19	presence 45:14,15,18	pre-S.B 118:22	212:20 240:22
291:10 303:16	47:8 52:19,20 68:8	195:17	291:3 307:18 317:3
305:25 313:7 314:2	84:15,23 85:1,3	primarily 21:10	317:9 318:8,18

JOE PETERS

4/30/2014

34

problematic 155:24	179:25 242:24	30:13 31:8 40:18	173:3,5,17 179:19
procedure 1:20	program 32:9 78:18	52:4,7,9,13 55:7	184:23 186:19,22
116:18 244:10	83:22 84:6,17 95:13	56:4 57:6 68:17	186:23,24 281:24
307:16 308:22	97:3 111:4 158:11	69:19 70:6 75:18	320:6,8 328:22
procedures 76:19,20	206:6 208:11 224:6	80:10,14,20 83:12	provides 82:3 89:18
77:1,2 147:2,7	224:16 227:11,17	83:14 84:9 86:17	173:8 201:25
249:17 254:8 255:3	227:17 231:3,23	87:15,19 91:5 92:2	309:13
267:2	237:17,18 280:25	92:14,23 94:15 99:6	providing 80:9 91:18
proceeding 333:3	281:22 282:2,15	108:19 111:20	97:25 98:18,22 99:7
Proceedings 329:4	294:10	115:2 116:1,9,16,19	104:18 169:19
process 21:6 32:24	programmers 43:17	118:21 119:10,13	170:3,15 217:1
32:25 33:2 35:20	programming 96:23	120:17,21 121:24	318:12
42:15,20,24 46:17	programs 14:13	129:2,4,9 130:17	proving 45:19 304:22
47:16 48:9,16 49:9	325:24	134:9 139:7 142:12	provision 30:4 36:17
58:8,9,9 59:9,15,22	projected 177:8	143:2,14 145:19	36:23 41:22 42:6,8
62:25 63:20,20	192:15	146:3,8 154:13	69:24 72:7 73:7
64:13 65:4 66:7,10	promise 323:12	158:25 159:1 171:8	75:17 83:13 97:19
80:24 95:4 105:19	promoted 15:20,25	171:9 173:21	174:2
108:9 119:23 120:3	promulgated 31:18	184:19 190:23,24	provisions 1:21 27:9
168:11,13 178:24	32:8,11 63:9 87:25	225:22,24 284:4,8	108:7,8
182:18 183:7	promulgating 63:12	298:6	proximity 199:5
202:16 211:1	prone 300:21	provided 20:4 48:2	public 1:9 3:21 5:21
213:17 226:16	proof 40:11 46:8,20	54:15 57:5 83:5	13:7 14:18 16:9
234:5 238:2,2	52:3,7,9,11,14,17	86:21 89:25 94:9	31:7,18 34:1,3,5
240:22 263:24	53:1 69:15 70:3	105:18 106:25	35:12 61:22 67:1,3
274:1 296:3,12	72:17,22 101:7	109:16 110:24	71:12,19 81:22
processed 266:22	146:8 154:16,17	111:4,25 112:10,11	85:25 107:10,24
processes 82:3 234:9	156:17,24 157:2	112:12,15 113:4,12	113:25 114:8
237:7	323:6	113:14,17 114:10	115:15 130:8
processing 91:9,14	proper 299:12	114:20,23 115:5,8	134:16 137:16
91:18 170:23	property 23:20 24:6	115:10,17 117:1,4	139:1 157:24
178:23 181:10	226:1	119:22 120:2,9,12	189:22 192:21
182:1	proposal 230:11	121:1,7,9,12,25	193:12,17,21,25
produce 213:17	proposals 231:10	123:5,7 124:6,10	194:4,6,12,20,23
257:2	proposition 325:19	126:9,16,22 128:7	195:6,11,18,25
produced 1:13 20:13	proprietor 171:23	128:21 129:19	196:2,8 198:22
186:2,16,19 197:12	prospective 26:16	132:9,23,25 133:10	199:1,2,4,10,17,21
198:1 205:18,21	prospectively 196:7	134:16,20 135:6,9	199:25 200:5,7,12
209:4,10 213:9	protocol 121:20,22	135:11 136:13	200:18,24 201:14
230:2 236:1 242:21	132:7,13 135:16	137:2,8,10,14 139:1	201:20 204:14
248:21 273:21	prove 40:7 45:18	140:4,11 141:9	212:2 227:19 234:7
288:13 311:20	47:24 156:4 304:5	142:9 143:7,11	234:10,14,18 235:3
328:6,8,20	305:12 306:4	154:16 157:24	235:11,20 237:8,16
product 197:22	307:21	158:2 166:20	237:19 241:10
production 20:5	provide 16:5 26:15	168:10,11,20,25	242:7,11 244:23

JOE PETERS

4/30/2014

35

270:5 280:17,23,23 281:3 282:2,24 283:3 293:18,24 294:14,15 305:1,6 315:5,16,19 320:5 publication 7:13 195:14 270:1 280:16 281:14 293:9 publicize 282:15 294:3,9 publicized 281:7 283:16 publicizing 269:13 269:22 published 63:12 281:11 283:21 pull 232:16 pulled 207:5,7 320:14 pulling 214:24 215:3 purchase 180:3 225:21 226:24 230:20 purchased 24:6 181:22 purchases 226:2 purely 96:13 210:20 purge 180:19 purged 180:24 purging 180:13,17 purpose 10:8 43:11 50:10 51:6,11 53:8 74:7 101:7 143:3,14 159:12 206:8,13,14 235:22,22 280:1,5 purposes 27:1 28:8 29:17 75:11 124:20 124:23 129:5 160:2 180:4 198:25 201:21 212:23 213:18 256:7,10 258:9,15 260:8,23 pursuant 1:20 171:4 171:6	put 43:17 151:24 185:25 192:23,23 196:19 198:5 199:10,23 206:17 287:10,21 299:5,7 308:3,15 310:6 316:25 puts 69:3 putting 6:8 42:23 186:13 p.m 1:16 127:12 129:13 147:15 238:10,10 246:15 295:3,3 329:4 P.O 3:17 <hr/> Q <hr/> qualified 73:13 132:1 153:6 qualify 30:22 98:9 181:4 203:2 301:22 305:3 324:5 quality 47:15,18 48:16 55:5 78:8 181:19 240:22 262:2 322:16 quantify 210:14 236:20 quantity 210:10 316:6 query 35:12 37:16 110:18 163:23,23 320:16 question 9:14 10:1,3 10:14,17,22,25 12:6 19:3 23:1 25:10,11 30:24 33:20 36:21 39:18 40:22 55:12 62:7,16 69:16 72:8 73:15 79:12 81:4 83:9 85:12 86:10 87:22 91:11 92:10 106:5,11 111:19 112:25 113:2 118:8 118:9,15 119:6	125:25 132:21 133:19,20 139:16 142:17,21,25 143:1 146:1 147:5,24 154:7 155:17 156:22 157:14 160:14 162:20 196:1 199:19 202:23 204:13 218:10 230:4 232:11 233:19 236:14 237:9,14,15 253:17 258:6 261:24 263:17,23 266:17 268:24 271:7,19 278:17 282:9,11 284:17 288:5 290:8 293:20 293:23 295:15 299:3 306:13 311:9 311:10 314:2,13 317:16 318:23 323:4 325:18 questioning 189:24 questions 9:15,17 10:11,21 12:8,14,18 12:24 13:2 105:22 106:8,9,13 128:5,15 147:25 148:3 189:17,21 190:1,3 205:9 208:10 209:15,18,22,23 224:3 226:20 233:24 258:5 313:19 327:19 328:15 329:1 queueing 175:7,8 queuing 198:24 285:10,17 quick 145:7 233:23 320:3 quickly 78:13 quite 180:19 312:8 quote 36:24,24 215:19	quote/unquote 199:1 216:12 217:10 <hr/> R <hr/> R 2:1 331:1 race 68:24 69:2,10 149:25 150:5 151:18,23 153:8 154:21 159:17 162:18 310:24 races 152:17 racial 121:24 130:21 138:11 152:10 154:25 192:3 radio 95:5 radius 206:2,11 207:13 rail 200:9 raise 210:3 280:17 raised 234:1 ran 62:20 rancher 23:19,21 random 299:11 ranger 15:25 23:24 25:23 218:5 rangers 67:11 191:3 Rarely 68:4 rationale 78:21 rdoggett@trla.org 3:13 reach 187:19 208:18 326:18 reached 237:25 reaching 231:6 reactive 237:2 read 18:3 26:22 28:23 100:19 118:7 158:4 215:6 277:3 290:17 304:19 307:10 readily 67:18 116:9 116:19 305:18 reading 29:9 69:23 128:20 303:20 316:17
---	---	---	--

JOE PETERS

4/30/2014

36

reads 259:2 262:14 270:10 Reagan 183:15 real 45:12,13 47:15 78:12 164:7,12,19 184:5 realize 11:16,17 reallocate 178:16 really 15:13 224:3 310:10 318:3 324:8 reason 12:17 48:24 58:18 79:9,9 92:21 92:25 202:11 219:2 261:3 262:6 264:10 264:13 272:10 291:6 322:9 330:2,4 reasons 48:19 155:16 178:8,12 317:5 331:7 Rebecca 184:3 recall 20:6 22:19 27:17 28:14 31:10 63:13 96:17 98:1 108:5,17 123:25,25 136:23 139:21,23 168:24 169:3,7 221:24 225:15 234:25 235:7 236:3 236:10 239:25 241:18 242:6 250:21 267:12 269:19 272:17 276:9,11 287:12 328:2,3 recalling 12:15 receipt 181:17 188:18 268:21 322:15 receive 114:16 118:1 118:10,16 122:7,14 141:7 156:3 163:21 166:18 180:20 243:20 244:21 256:13 257:6,16,19 258:12	received 107:11,25 108:4 117:11 141:10 164:25 235:2 236:7,15,19 242:6,10 247:6,6 249:20 253:6 267:4 receives 234:6 receiving 71:18 271:5 Recess 77:21 147:15 238:10 295:3 recognize 309:24 recollection 123:7 242:3 recommend 326:14 recommendation 192:21,25 229:5 recommendations 228:23 recommended 226:3 record 1:21 8:1,8,14 9:19 10:9 11:9,18 14:10 54:18 77:20 77:22,23 106:17,20 106:21,22,23 110:15,16,21,22 111:17,19 120:13 135:21,22,23 147:13,16 161:17 189:5,6 197:13,16 197:17,18,19 198:4 211:7 212:25 213:3 213:4,5,16 214:8,10 214:11,12 219:6 234:4 236:25 238:9 238:11 240:23 241:1 247:19,22 255:24 262:1 280:1 280:4 294:25 295:2 295:4 301:3,5 323:16 327:24 328:11,15 329:3 332:16 recorded 69:7 265:6 records 47:17,22 54:4,5 64:7,11 96:8	97:3 110:23 112:11 124:21 125:19 127:14,15 129:21 129:23,24 133:10 235:15,19,25 236:21,23 304:11 red 229:1 redact 213:24,25 redacted 212:24 213:17 redesignate 153:13 reduce 43:12,14,14 43:16,20 reduced 231:4 refer 26:24 28:6 31:23 42:16 189:24 191:8 224:25 reference 189:22 190:3,4 221:1 222:14 304:17 313:1 referenced 210:15 215:17 267:7 315:4 references 205:17 220:5 223:21 251:5 323:25 referencing 208:24 251:17 267:16 referring 31:21 129:11,12 140:9 172:18 189:24 225:11 247:9 248:13 312:7 319:14 refers 227:23 refine 30:23 reflect 222:6 241:22 248:19 280:8 reflection 327:23 refresh 21:6 refresher 244:1,2 246:15,17 247:7,9 247:16 251:2 267:22 refreshes 178:13	refusal 70:6 refused 265:14 refuses 69:19 regard 13:14 14:12 54:19 55:17 75:13 79:3,14 108:18 109:5 112:18 113:3 138:9 139:9,18 142:10 145:23 301:21 307:12 regarding 14:13 66:13,22 79:1 86:21 90:9 100:4 105:18 106:13 107:21 122:24 128:6 130:9 130:20 131:4,8,21 138:7,10 187:18 235:3 236:8 258:5 320:22 328:17 regards 242:8,12 244:10 245:12 281:21 region 188:3 191:19 191:21 198:16 266:5 321:7 regional 13:24 188:3 255:7,11 263:7 299:18 321:9,11 regions 13:20 191:17 321:12,19 register 52:8,10 registered 34:13,17 34:24,25 35:2,5,7 35:13,16 86:5 105:6 108:11,21 109:14 111:5 113:11 117:15,18,23,25 119:3,15 120:18,19 128:24 130:20 133:7,15 138:11 140:15 160:13,17 160:23 161:1,3 302:12 registrar 176:7,9 220:4
--	--	--	--

JOE PETERS

4/30/2014

37

registration 34:14,25 35:3,9 36:1 54:18 56:9,17 57:16 68:10 302:6 304:12 333:15 registry 149:2 176:2 regular 11:12 26:8 26:11,25 60:15 125:7,17 169:21 243:20 291:2 299:13 regularly 244:9,11 regulation 38:3 40:18 41:25 65:8,10,17,18 65:20 69:18 71:24 76:20 82:5,15 83:20 85:18 91:13 93:22 94:5,8 95:9 145:23 146:10 166:5 174:21 176:14 188:22 196:14 203:12 232:12 233:14 307:10 326:11 regulations 31:17,23 32:7,15 33:3,15,22 65:9 77:8,13 78:12 78:21 79:1 80:15 81:5 95:7 99:4,24 147:1,6 193:7 262:9 304:20 306:16 regulatory 157:13 Reid 328:18 reinstated 15:17 reissue 125:15 rejected 97:20 relate 23:17 related 14:1,2 98:19 118:3,11,18,22 136:17 137:1,17 218:14 235:25 333:2 relates 133:20 233:25 274:24 relating 145:20 146:3	Relations 236:24 relationship 82:6 relayed 90:2 relays 88:20 releases 66:13,18 85:25 88:2 94:14,23 239:21 270:6 281:8 281:11,18,21 282:3 283:16,19 288:15 288:20,22 315:9 relevant 77:9 relies 237:3 rely 47:10 remains 55:23 remember 11:7,21 16:23 24:17 121:15 151:15 154:6 164:24 172:13 223:25 224:18 255:4 258:8 265:8 270:2 276:4 283:18 286:13 302:8 308:10 312:2 318:9 remind 12:21 renew 74:14,19 75:1 152:25 153:6,11 154:10,10,24 156:14,15,16,23 260:10 261:15 264:16 298:21 328:22 renewal 30:6 74:8 75:17 80:20 151:10 153:17 193:18,18 202:13,14,16 259:9 263:18,20 264:4,7 264:20 313:4 renewed 49:19,24 73:23 153:2,10 154:21 180:23 renewing 74:23 75:19 reorganize 15:22 repeat 189:16 repeating 189:13	rephrase 79:13 102:5 114:5 132:12 replace 184:2 replacement 76:2,13 76:25 259:3,22 297:21,22 replacements 75:25 76:15,20 report 7:16 14:16,17 21:18,24 321:10,11 322:11 reported 1:17 4:5 321:25 reporter 9:18,24 17:16,19,22 28:17 32:3 60:18 62:1,9 77:20,22 81:18 88:15 98:3 100:21 106:21,23 109:25 118:9 123:1 135:21 135:23 147:13,16 187:12 189:4 196:24 197:17,19 205:11 211:15 213:3,5,16 214:2,8 214:11 223:7 238:9 238:11 246:10 295:2,4 329:3 332:11 reporters 61:13 Reporter's 5:9 332:8 reports 293:13 321:9 322:1 328:17,19 represent 8:10 17:11 238:16 293:17 301:12 313:15 316:1,10,22 representation 71:1 269:9 representative 41:8 42:25 71:2,21 194:3 218:12 285:4 296:10 301:12 representatives 22:6 22:14 42:16 53:11	59:14 70:18 93:11 96:16,17,18 177:15 214:24 243:18,19 244:21 245:13,17 247:2 327:13 represented 17:6 222:21 representing 17:8 318:6 represents 9:8 293:21 request 20:4 105:5 107:5,11,24 108:14 108:20,24 109:4 116:4 118:2,10,17 118:25 125:11 137:7 159:9 166:4 173:18,19,20,24 174:19 175:14,19 176:10,12 177:1,4,5 177:25 178:1 181:21 182:12 197:23 198:5 204:1 212:18 220:13 222:22 223:9,18 229:14 230:9 239:3 251:23 258:8,11 263:6 310:24 328:23 requested 107:1 112:2 115:24 116:10,16,20 118:6 136:13 149:10 158:5 173:15 203:4 230:12 328:16 requesting 58:2 120:16 213:10 312:16,19,24 requests 107:9 108:4 108:5 117:10 119:16,19 136:12 137:4 138:10 172:23 222:3 231:10,12,15,16 require 30:6,12,24,25
--	---	---	--

JOE PETERS

4/30/2014

38

31:4,7,12,15 34:12 45:13,17 46:14,15 58:2,4,18,20 68:11 68:13 69:14 70:2,16 73:1 75:1 77:4 81:8 91:9 104:21 162:3 165:3 180:6 193:16 226:16,18 232:13 245:13 262:9 313:3 required 26:17 27:9 30:8 33:12,14 42:3 43:12 46:22 47:24 65:18 68:23 73:3 76:12 95:10,25 97:3 156:8 233:21,22 244:15 247:15 249:4 259:23 260:13 262:23 266:7 277:3 287:5 299:5,7,25 300:16 300:19 304:5 313:5 313:25 314:22 316:15 321:11 requirement 26:13 42:19 53:1 58:6 59:25 66:14 68:8 72:25 74:18 160:3 245:19 294:6 312:13 requirements 7:7 29:8 42:9,12,13 66:23 70:16 76:1 77:5 91:14 162:13 178:1 183:1,2 232:2 251:14 264:20 277:20 300:8,10 304:7 requires 30:20 31:11 69:22 161:12,14,15 162:7 193:14 203:13 237:22 313:23 326:11 requiring 46:8 49:9 51:11 58:14 59:8,10 59:12 64:12 74:8	287:9 research 310:15 311:13 reserve 329:1 residence 40:11 154:17 202:16 306:4 323:7 residency 304:23 313:24 314:15 resident 156:24 157:2 208:2 304:3,5 305:3,13 residents 93:13 resolution 223:9 resolve 240:25 resolved 235:6 300:25 resource 215:19 217:11 325:2,24 327:5 resources 93:3,6,8,9 95:17 178:16 182:3 182:7 218:16,18,20 218:20 325:4,11,13 326:21 327:2 respect 22:5 24:10 25:5 48:13 62:17 80:7 99:12,13 101:25 102:1 103:23 116:4,13,15 117:23,25 119:7,9 131:15 134:1 139:16 143:17 148:16 169:19 197:20,25 199:14 209:19 213:7,12 229:1 231:3 240:3,6 240:21 268:19 279:25 respective 270:13 respond 134:13 137:4 209:19 responded 90:20 responding 108:20 137:7 290:7	responds 172:22 response 90:25 108:14 229:20 288:2 responses 90:24 273:24 responsibilities 13:8 269:6,6,9,18 270:10 responsibility 209:25 210:22 294:21 responsible 21:16 243:12,16 251:10 255:9 266:12 269:12,16,22 274:13 294:14 restate 10:14 33:20 83:8 91:11 92:11,20 restating 325:20 rested 228:20 restricted 144:4 restrictive 58:24,25 result 24:15 70:7 322:7 324:13,13,17 326:12 328:18 results 133:5,6 311:19 retained 273:17 retest 45:4,5 retired 16:1 23:13 retrained 255:3 retraining 255:17,18 return 104:22 256:20 270:13 332:20 returned 185:18 197:24 returning 260:17,20 261:23 returns 63:23 revenue 180:7 review 58:15 79:8 136:21,24 238:25 239:15 241:19,22 250:9 reviewed 19:25 20:3 20:7 242:4,19	251:22 252:1 253:8 253:12 267:1 reviewing 136:25,25 313:15 revoked 188:6 256:1 256:6,8 257:18,22 re-issuance 45:2 re-plow 165:25 186:5 Richards 110:7 RICK 1:5 332:5 right 10:18 42:17 76:18 97:16 143:22 152:3 157:1 160:12 167:16 191:14 192:17 194:20 195:8,13,16 198:7,8 198:21 211:6,21 217:20 218:6 219:22 220:8 232:11,22 242:25 251:6 265:8 276:15 293:11,15 294:23 295:21 302:8,9 303:3,7 304:23 305:4,17,21,24 306:1,11 309:21 315:6 316:6,17 318:15,19 319:10 319:18 324:22 326:10 Rights 2:5 119:2,18 Rio 3:11 301:11 road 177:20 Robert 3:11 6:13 9:1 211:21 219:14 301:11 323:5 Rodriguez 5:23 21:9 21:14,18 22:1 88:17 89:10 90:3,5 221:1 221:3,14 222:10,21 292:13,16 Rodriguez's 222:6 223:11 rolled 327:17 rollout 216:16
--	--	---	--

JOE PETERS

4/30/2014

39

Ronald 3:15 Ronnie 9:3 ronny.keister@oag... 3:19 room 2:6 8:12,13 Rosenberg 3:1 rotating 87:14 roughly 201:16 routine 62:1,9 RPR 4:5 Rudd 2:20 8:24,24 294:25 rule 31:21 34:16 38:17,20,21,22,25 44:23,24 55:16 57:12,15,21 58:4,11 58:23,24 66:8 67:25 76:23 77:1,2 80:5 85:18 91:8,12,13 93:22 94:5,7 95:23 96:4 97:19,22 145:17 166:5 174:21 176:14 188:22 232:12 312:17 325:10 rules 1:20 9:13 31:22 33:6,7 63:10,12,13 77:12 78:22 79:1,3 79:4,9,14,15,17,23 80:1,7,10,15 81:5 96:1 104:9,16,21 105:1 189:15 244:4 run 49:4 63:11,17,18 64:5,6 292:3,4,7,8 292:18 running 61:8,13,14 63:1 runs 63:22 rural 15:7 191:20,24 <hr/> S <hr/> S 2:1,4 3:15 331:1,1,1 safe 67:24 Safety 1:9 3:21 5:22 13:7 14:18 16:9	31:7,18 34:1,3,5 35:12 71:12 81:22 86:1 107:10,24 113:25 114:8 115:15 134:16 137:16 139:1 157:24 192:22 212:2 227:19 320:5 Safety's 130:8 sakes 225:8 sample 296:12 Sarandos 137:25 138:1 140:22 151:4 320:19 satisfied 231:17 satisfies 72:25 satisfy 72:22 232:1 satisfying 29:18 saturation 283:2 Saturday 95:10,21 188:23 Saturdays 95:8,17 Saundra 168:7 save 49:5 78:5 103:16 287:7 saw 58:18 170:11 221:15 267:7 saying 35:18 39:19 85:9 128:12 211:21 230:6 265:13,24 296:14,19 305:14 318:14 says 29:14 30:5 31:9 34:16 40:6 56:8,9 56:16,17 61:6 63:24 75:17 82:8,18 124:4 131:10 150:13 166:5 171:12 186:14 206:19 214:22 215:21 220:22 246:14 250:2 252:5,9 254:8 254:12,14 255:23 258:8,10 263:1,25 264:1 278:1 285:24	289:21 290:3 301:23 302:3,11 303:15 304:2 306:25 313:2,21,22 316:11,13 317:5 318:9 327:3 scanner 185:2 scarce 325:24 scheduled 84:10,13 244:11 272:11 schedules 154:4 scheme 231:20 school 15:3,6 54:4 304:11 Science 14:24 scope 102:2 104:10 116:12 130:15,18 143:10 Scott 2:10 8:16 148:4 158:9 scott@brazilanddu... 2:13 scout 171:22 screen 43:8 59:18 62:25 63:16,18,24 screens 62:20 scrutinize 48:11 scrutiny 48:1 SEAL 333:6 search 150:16 151:5 152:3 159:19 160:25 161:2,4 165:17,18 searchable 69:9,10 searches 151:7 second 23:6 104:22 106:18,20 110:14 128:20 246:13 266:25 269:5 277:17,25 289:11 289:25 309:17 316:2 secondary 41:5 51:10 51:18,20 102:7 104:12 277:11	279:14,20 280:6 305:25 319:7 Secretary 35:12,15 36:2 58:13 86:3,24 87:3 88:18 109:17 110:24 111:25 112:2,10,24 113:4 113:21 114:22 117:2 120:21 122:9 133:3 137:3,4,6,10 138:21,24 140:5,12 140:24 142:1 149:7 149:16,20 152:6,8 152:11 157:24 158:5 159:1 163:8 172:12,19,20,22 173:4,17,24 183:11 183:14 185:1 218:13 223:18 224:19 225:3,13,16 225:17,20,21 226:1 226:7,11,24 227:18 227:23 228:12 250:12 268:10 274:21,24 275:2,11 275:13 287:19 289:18 320:6,23 321:1 section 6:7 29:5,14 29:18,23,25 30:8,9 31:19 32:23 34:8,12 36:8 40:5,25 41:17 44:12 51:9 53:7 54:11 57:24 73:17 75:16,24 77:3,6 119:1,17 145:13,14 153:7 306:21 313:2 313:6,15,21 secure 51:21 201:23 security 15:23 49:8 69:12,15,20 70:3,7 124:24 126:18 151:15 182:4,13 211:24 see 10:17 18:14 62:3
--	---	--	--

JOE PETERS

4/30/2014

40

62:6 65:13,19 76:22 90:25 102:4 104:3 110:14,17 123:14 127:7,14 128:10 130:6 136:4 156:2 187:15,21 193:6,6 205:24 206:1,19 211:11 212:20 220:23,24 226:4 230:8,22 231:1 240:2 241:19 242:18 248:9 255:15 277:22 289:23 290:5 304:4 305:14,18 308:12 312:11 seeing 175:12 236:3 seek 55:13 seeking 39:3 97:23 258:15 284:1 296:21 297:16 322:6 seen 17:23 60:19 88:10,10 94:22 98:5 98:24 99:21,23 110:2 123:9 145:15 145:17 175:10 181:6 197:1 205:14 205:15 209:9,12 210:2,3 211:18 219:9 236:5,14 242:14,15 265:5 276:8,11 288:17 294:19 313:18 322:21 Seibert 1:17 4:5 332:11 333:12 select 124:11 selected 44:20 Senate 5:15 26:7,10 26:22,24 27:9 28:21 196:4 senator 173:15 310:24 send 166:15 188:6,8	203:9 206:15 300:3 300:6 sends 93:11 221:4 senior 21:15,22 22:8 22:9,12 123:24 187:25 255:6,12,16 299:10,20 sense 190:5 191:6 195:1,4 209:24 218:12,17,23 219:1 237:2 sent 18:15 58:19 66:8 89:5 90:10 131:22 149:4,7 223:10 235:10 263:18,21 264:4,7 268:13,18 281:12 sentence 318:11 Seoul 15:15 separate 25:8,10 34:4 43:9 150:3 155:12 158:15,16 162:21 172:1 178:4 285:1,8 308:9 separately 155:5 158:10 163:13 September 5:18 16:2 59:4 60:25 61:2 66:3 96:14 169:24 169:24 216:7 219:13,21 220:21 221:4 254:25 255:2 sergeant 15:20 218:5 218:5 series 189:14 190:3 191:8 220:19 serve 16:10 served 15:21 206:11 serves 222:11 service 15:18 22:6,13 41:8 42:16,25 47:18 53:11 59:13 70:18 70:25 71:1,2,21 87:16,19 93:11 170:3 171:8,10	173:3 177:15 184:24 200:9,11 202:18 203:13,15 203:23 204:16,23 208:3 214:24 240:23 241:1 243:18,19 244:21 244:22 245:12,16 247:2 262:1 285:4 296:10 327:13 services 14:17 71:8 71:19,25 80:14,21 82:25 83:4,13,14 84:9 86:18,18 91:9 91:18,24 92:3,14,23 94:16 96:8 157:14 190:23,24 191:1 193:16 194:22 208:11 217:1 232:6 232:17 233:7 234:7 280:1,4 serving 195:20 Sessinger 282:12,20 session 26:8,11,25 80:18 274:12 sessions 274:10 set 7:3 32:7 36:24 38:3 42:6 51:11 53:9 76:19,25 77:2 171:13 188:13 205:9 270:25 276:19 283:5 sets 37:15 54:11 129:17 setting 271:9 seven 73:18 75:8 severely 215:4,20 216:3 severity 231:4 sex 149:1 176:1 313:18 Shaya 219:25 220:10 sheet 248:1,18 265:20 266:1,5 330:2	sheriff's 15:7 16:4 23:25 175:22 218:4 shift 208:9 266:8,14 295:14 shipping 287:7 shops 287:2 short 19:19 shortfall 232:14 shorthand 1:18 332:11 shortly 122:12 show 56:22 57:17 72:17 73:3 156:17 156:24 157:1,5 186:7 316:16 showed 292:14 315:25 316:7 showing 7:16 56:11 56:13,16 shows 74:2 181:2 205:17 206:24 307:25 sick 12:13 side 22:10 48:14 sides 206:19 sign 33:23,25 35:17 81:23 97:23 104:17 188:18 256:16 260:13 265:9 266:4 286:23,23 297:24 300:4,11,12,16 330:3 signage 288:9 299:12 299:13,23,25 300:7 300:10 signature 5:9 183:25 248:2 254:15 265:1 313:17 330:1 332:19 signed 34:2 81:1 98:21 257:2 259:10 265:2,14 significant 201:1,18 211:4 216:22 244:4 signing 104:23
--	--	--	--

JOE PETERS

4/30/2014

41

signoff 193:1,3	154:12,14 155:3	six-hour 270:11,17	173:10 175:16
signs 286:3,9	156:6,9,12,18,20,25	size 195:9	177:11 204:5 219:6
sign-in 248:1,18	157:17,19 158:20	sizes 84:7	219:17 237:13
265:20 266:1	159:4,18,22 160:24	slept 242:3	247:13,13 251:7
similar 43:3 55:16	162:2 163:7 164:6	slow 33:17 148:4	257:11 261:12
56:25 57:7 58:10	164:10,13,17	slowly 147:23	271:21 278:15
72:14 89:25 90:9	165:14 166:10,24	small 15:7 195:10	284:11,14,15
109:4 178:22	167:2,7,11 170:8,18	smaller 253:11	286:11 288:11
182:21 254:9,11	170:21,25 171:2,11	Smith 6:10 32:18,21	292:23 306:3 310:1
286:23 288:9	171:15 172:3,10	56:7,8,16 57:1,1,2,2	311:5,9 312:8
Similarities 254:12	173:13 174:1,4,7,24	197:5	313:22 316:5
similarity 57:11	175:6,12 178:18	smoothly 237:8	322:19 327:20,20
simple 148:7	179:3,10 180:15,25	Snelson 4:1	sort 92:10 167:6
simply 186:25 194:10	182:2,5 183:6 184:1	social 69:12,15,19	178:2 184:13 304:4
216:16 249:10	184:11,15 185:4,7,9	70:3,7 86:1 88:2	310:11,11 311:11
326:12	185:12 187:10	124:24 126:18	314:1
single 227:4	188:24 189:1 190:6	151:14 240:11	SOS 111:5,20 123:6
sir 9:10,16 10:6,12,19	191:18 192:5 193:9	270:6 282:4	129:5,19
10:19,23 11:6,19	200:6,13,20 203:14	solemnly 331:3	sound 316:24
12:4,12,16,20 13:1	204:20,24 206:23	solicit 208:19 237:16	Sounds 68:20
13:3 14:5,15 16:16	207:23 209:11	somebody 150:24	sources 303:16
16:20 17:7,23 26:6	210:2,5 211:25	157:11,13 158:10	south 15:16 21:16
26:9 28:18 29:3	214:18 217:13,17	168:5 187:23	SOUTHERN 1:1
31:2,5,16 37:22	219:3,11 220:1,16	256:19 257:24	332:1
38:1,4 43:19 44:19	220:18 225:15	265:15 300:3	Southwest 14:25
51:4,4 52:6,6 55:20	227:9,16 228:1,6	308:25 318:14	space 171:24
60:7,9,11,14,16	230:16,18 231:9	someone's 188:5	Spanish 88:6,10,12
61:20 62:6 64:18	304:18,24 306:21	314:8	94:25 95:2 245:17
67:21,24 70:12,15	307:7,9 311:4	somewhat 201:18	245:20 288:13,16
73:20 74:12,15	312:12,14 314:4	soon 328:23	288:17,19,23,25
76:14 78:16,23 79:2	315:24 316:4	sorry 14:5 27:13	289:2,4
82:11,17,22 83:1	318:16 323:1,19	28:10 36:15 43:6	speak 9:23 11:2 21:1
84:1 90:12 91:25	328:13	47:10 50:19 53:16	147:23 239:2,22
93:15,18 95:9 100:6	sit 158:3 170:9	53:16 55:15 56:11	241:13 242:1 288:6
100:11 108:12	site 87:1 169:22	58:1 59:2 64:22	speakers 245:20
109:9 110:4 121:21	188:13	65:22 71:2,9 80:20	speaking 9:9 194:11
121:23 122:3,22,25	sites 87:4 172:24	86:9 90:13 92:10,20	243:2
123:14 125:18	173:5 217:3	93:5 99:4 100:19	specialized 244:8,18
126:11 128:18	sitting 227:6 270:19	109:11 110:11	specific 30:14 66:17
129:20 135:14	323:20	113:24 117:16	86:19,22 91:4 94:18
136:11 137:15	situation 125:10	118:13 120:14	108:5,23 112:9
141:24 145:2 148:2	307:13	122:20 127:5,9	115:7 121:11
148:6,6,18,22 149:6	six 74:24 155:22	128:20 140:21	123:25 125:12
149:21 150:6 151:1	170:2	152:1 153:24	130:3 131:25
151:8,20 153:5,20	Sixth 1:19 2:21	160:14 163:11	136:22,23 137:13

JOE PETERS

4/30/2014

42

140:3,11 141:20 147:2 159:9 160:2 167:4 168:5 174:13 174:16 191:17,19 206:8 208:19 217:5 236:3 240:16 243:15 244:22 313:20 321:16 specifically 17:12 21:3 25:6 26:4 31:10,10 32:13 81:7 86:16 90:5 105:11 108:19 129:11 133:18 137:20 138:7 139:10 147:7 159:5 170:5 181:9 215:17 234:21 235:1,16 258:12 262:12 283:7,17,18 299:22 307:20 specifications 226:2 specifics 24:17 94:24 287:12 302:2 specified 84:7 specifies 30:20 specify 34:23 speculation 61:17 62:12 74:5 79:12,19 89:22 90:15 97:12 98:14 100:17 101:2 101:14 102:10 103:13,22 104:2 105:1 111:2,22 112:21 114:4,14 116:5 129:1,7 130:1 132:11,18 135:18 142:6 195:3 201:6 294:17 318:22 speed 28:19 spelling 150:11 spend 228:3 325:13 325:23 326:20 spends 170:5 spent 15:12 169:19 169:24 170:2 327:5	Spinx 262:4 spoke 22:17,20 158:6 168:17 179:18 185:21 spoken 21:5 spot 41:12,15 48:4 spread 218:25 spreadsheet 186:1 248:2 spreadsheets 94:14 staff 21:6 32:17 33:5 33:9 42:22 47:21,22 61:22 71:8 93:1 138:6 140:17 168:21 169:18 170:15,16 179:24 182:8 188:17 204:7 206:5 209:18 211:23 217:2,3 226:11,12,12 228:24 229:4 240:7 240:23 241:1 243:16 250:13 255:8 266:23 268:10 290:24 291:4 staffed 71:3 stage 259:18 stamped 7:8 277:23 standard 12:5 staple 277:22 Star 5:18 60:25 start 117:16 149:3 189:20 212:5 started 42:23 184:7 starting 62:4,4 238:23 306:21 starts 290:2 state 1:17 2:14 6:11 8:7 13:24 14:25,25 16:6,14,18,22 21:17 21:23 22:3 24:23 30:24 35:15 36:21 41:11 58:13 61:1 69:13,22 70:2 78:25	80:9 82:25 83:3,3,4 83:12 86:3 87:6 90:20 96:7 107:20 109:17 110:18 111:16 112:1,3,10 112:24 113:4 122:9 133:3,21 135:12 137:2,3,4,6,11 138:22,24 140:5,12 140:24 142:1 149:7 149:17,20 151:11 152:6,9,11 159:1 163:8 172:12,19,20 172:22 173:5,17 177:1,6,7 179:12,13 180:7,10 184:21 191:17,19 192:15 205:17 206:7 207:18 213:19 218:13,25 222:12 225:13,20,22 226:12,16,24 227:19 228:12,15 229:7 244:13 268:10 275:13 279:25 280:4 287:19 310:22 314:1 332:9,12 stated 1:21 79:4 211:7 263:11 331:6 statement 62:18 67:24 195:17 325:18 328:25 statements 61:19 states 1:1 2:3 8:11 9:9 29:16 61:25 65:17 69:18 93:23 98:17 145:18,20 146:2,4,6 181:10 332:1 statewide 201:3 281:13 321:5,10 322:11 State's 35:12 36:3 86:25 87:3 88:18	110:24 113:21 114:22 117:2 120:22 157:24 158:5 173:24 183:11,14 185:1 201:12 223:19 224:19 225:3,17,17 226:1,7 227:23 250:13 274:21,25 275:2,11 289:18 320:6,23 321:1 static 326:4 stating 131:18 station 59:7 71:5,7,23 78:7 86:20 89:11,12 89:19 90:10 93:14 104:11 171:14 173:16 270:12 287:24 296:11 322:6 stations 68:1 70:23 71:3 72:7,9 80:14 80:16 81:6,9,12 85:22 87:6,13,20 88:12,23 94:21 95:1 95:2,5 96:7 190:2 215:19 224:3,20 226:25,25 227:11 230:21 286:5,6,9,19 287:19 327:14 statute 30:12 33:12 69:22 70:19 85:18 203:12 233:14 326:11 statutes 193:6 statutory 210:23 262:5 294:2 312:18 stay 120:14 181:1,2 326:4 stays 181:5 Stephen 3:16 9:4 Stepping 192:9 steps 157:20 Steve 21:9 Stevenson 214:16,19
---	---	---	--

JOE PETERS

4/30/2014

43

214:20 stick 224:1 sticks 276:10 stolen 37:3,4 stop 148:4 153:23 199:7,9 stories 95:3 Straphio 245:7 Street 1:19 2:21 4:2 strength 217:24 strictly 134:1 strike 36:15 37:23 71:9 string 6:4 123:15 219:16,16,17,20 stringent 57:14 structured 79:5,10 163:23,24 studied 192:6 studies 174:25 175:1 208:6 study 167:23 169:16 175:3 179:5 192:15 210:13 323:17 Sub 29:23 53:14,16 53:20 Subchapter 6:6 145:11 subject 12:22 81:11 81:14 138:18 196:17 212:8 213:21 227:18 235:23 246:6 251:2 subjects 18:1,3 submit 58:3 99:25 229:22 submitted 229:24 332:17 Subsection 30:1,24 substantial 57:11 substantially 54:24 55:15,16 56:25 57:7 57:11 sub-bullet 252:8 successful 230:24	270:11,15,19 successfully 122:5 141:1 203:22,25 204:15 sued 24:9 sufficiency 88:22 sufficient 36:18,25 40:2 44:15 46:3 54:20 56:20 63:21 259:21 suggest 124:5 127:14 suggested 212:8 231:2 suggesting 303:23,25 suggestion 174:9,12 suit 24:11 Suite 1:19 2:11,22 3:2 4:7 333:14 summary 220:17 322:1 324:24 supervise 46:17 supervision 13:14 33:4 supervisor 55:10,11 55:14 95:21 182:24 265:11 296:6,9 317:23 supervisors 13:19 171:21 263:14 295:24 299:10,19 supervisory 34:4 supervisor's 183:19 183:25 supplied 168:14 185:13 supply 298:8 support 4:6 32:23 119:11,14 332:20 333:13 supporting 41:17 50:8,9,24 51:19,22 53:8,10 55:9 56:4 259:23,24 277:12 298:6 304:11,16,20 305:19 306:9	317:10,19 319:10 319:17,20 suppose 36:4 176:12 supposed 305:7 sure 10:2,15 14:9 16:23 19:11 33:11 36:22,23 39:18 47:15,23 49:13 51:21 64:15,18 69:16 72:9 78:11 83:11 85:14 88:7 89:1 90:23 91:12 96:21 100:21 109:22,23 112:16 118:9 124:25 130:16 134:25 138:3 141:19 146:1 150:21,22 152:8 160:15 168:8 173:7 176:24 181:4 186:8 190:13 203:3 205:16 210:7 212:14 213:6 222:13 224:15 226:5 236:14 237:9 247:25 253:23,24 268:3 271:7 272:1 286:13 295:15 303:9 306:13 309:9 323:16 328:6 surname 150:10 307:14,15 309:14 surnames 150:8 307:14 308:17,25 317:10 318:17 surprise 324:6,7 surprising 324:4 surrender 77:4 256:23,25 260:4 261:8,9,11 297:24 298:1,2 surrendering 256:17 257:3 259:10 260:13,16 262:6 survey 177:2 179:5	suspended 256:1,14 256:15,20 257:5,13 257:22 swear 331:3 switch 165:24 sworn 1:14 8:3 332:14 system 37:16 45:16 63:22 101:18 121:3 139:8 152:22 158:17,19,22,24 170:1 175:25 180:24 198:24 285:10 308:7 320:13 321:24 systematic 47:6,6 systems 175:7,9 285:17 S.B 6:9 26:25 36:19 37:1 40:2 57:17 77:9 81:8 83:16,25 84:3,5,16 85:2 86:10,15 95:11 101:18 105:5,9 106:15 107:2,5,13 108:18 109:2,7,15 109:21 111:8,13 114:21 117:4 119:1 119:17 120:17,23 120:24 127:2 133:14 134:17 135:1,13 136:18,18 136:24 137:1,11 142:10,13 143:4,14 167:4,8,10,18,24 168:11,13 169:1 170:7 174:2,6,17 175:11 176:23,25 178:1,5 179:21 184:9,14 186:13,15 195:16 196:3 208:17 210:10,14 217:15 312:22 S.B.14 28:19 244:16 294:3 320:7 327:1
---	---	---	---

JOE PETERS

4/30/2014

44

T			
T 331:1,1	311:16 313:7,9	181:6 192:16	118:5 120:6 130:4
tab 196:23 205:10	320:8,10	207:13 235:11	130:18,25 132:18
211:13 219:6,6	talks 307:11,18 312:9	250:1	139:4 141:3 142:6
table 57:16 96:17	318:2	tenure 223:22	143:6,16 148:10
take 29:4 34:7 35:18	targeted 86:7 282:24	Teresa 4:1	191:12 207:20
36:8 51:9 54:10	targeting 288:22	term 27:3 31:23	208:16 216:4 217:5
57:23 59:22 65:19	Tarrant 173:6	36:15 144:3,15	222:5 231:25
77:3 135:20 149:22	tasked 209:25	166:2 174:8	232:16 252:2
200:16 230:7	Tatum 3:16 9:4	terminate 81:11,14	269:21 290:25
231:25 232:3	tax 149:13 215:1	terminated 95:13	295:20 310:9 319:6
237:11 238:25	246:8	terminology 237:6	325:12 326:2,12
247:23 249:8,9,10	taxi 200:9,11,15,16	terms 45:19,19 49:3	328:21 331:6
251:19 257:4 266:7	teams 214:25	51:17 88:3 93:7	332:16
270:1,22 272:16	technical 35:22,24	210:20 218:16	testing 45:3 185:16
276:16 296:12	128:4,4,9,14 130:18	299:3 325:2,13	tests 271:8
298:21 302:12	131:15	328:11	TEX 186:10
324:10	technically 97:5	test 45:5 270:22	Texans 200:22
taken 1:15 64:8,11,22	technology 16:5	271:2 298:21	Texarkana 203:20
65:2 74:13,16,19	123:23 137:19,20	313:10 316:8	Texas 1:1,8,17,19
75:3 151:13 194:4	140:16 151:2	tested 271:11 272:1	2:12,14,22 3:4,11
333:4	176:21 244:1 271:9	testified 8:3 25:7,14	3:12,17,18,21,22
takes 282:2	320:17	25:19 111:3 120:10	4:2,7 5:16,22 6:5,11
talk 10:24 128:2,12	telecommunications	126:15 141:14	6:21 8:18,20,23,24
172:7 197:14	175:25	211:6 217:20 221:5	14:25,25 15:25 16:4
212:10,11 213:13	Telegram 5:18 60:25	223:2 228:2 241:7	16:18 24:23 25:23
214:9 219:4 224:7	telephone 2:4 3:1	261:7 295:8 323:24	26:13,16 31:19 32:5
239:7,14 242:25	240:6 284:8,13	testify 18:2,6 19:5,17	37:20 41:2 45:12
307:12 318:11	television 88:12	24:25 99:11 101:25	48:19 50:14,20 52:4
talked 112:23 161:13	tell 10:16 19:22 48:23	102:2 103:22,25	52:8,15 53:25 60:5
174:25 179:8,17	65:25 87:23 89:10	105:21 107:20	62:23 68:11 71:25
196:12 240:19	184:24 186:11	111:24 112:2,4	72:23,24 81:22 82:9
295:6 302:4 317:4	197:9 199:23 239:1	116:12,13 119:6,8	82:19 105:6,17
talking 11:15 25:5	245:24 249:19,21	127:19 130:2	107:20,25 108:21
31:9 40:14 44:7	253:7 259:8 268:16	131:12,13,16	110:19 111:16
48:8 65:20 71:20	279:10,13 287:9	292:16	114:20 115:9 116:8
94:23 117:6 122:9	288:17 292:5	testifying 16:18,22	117:19 118:2,11,17
160:1 172:8 186:23	303:22 305:2	78:20,25 102:1	118:21,25 119:2,3
205:20 214:13,14	313:12 318:3 319:3	119:25	119:15,16 120:16
225:3,4 227:1 240:3	327:1	testimony 10:9 12:23	122:18 124:10
244:8 247:8 280:22	telling 61:13 89:9	19:19 26:4 51:1	126:7 130:22
284:13 290:16	202:24 237:3	70:10 78:3 79:20	132:14 133:13,15
297:12 298:7	tells 259:2	80:9 99:15 102:20	133:22 135:1,12
300:14 302:24	temporary 49:6	105:14 112:21	136:14,14 137:2,5,7
306:22 311:2,3,6,15	184:23	114:13 115:12,20	138:12 140:14
	ten 14:22 80:6 159:13	116:3,22 117:21	143:23 144:23

JOE PETERS

4/30/2014

45

145:3,10,24 146:16 147:3,8 151:12 154:9 155:1,11 156:3,11 157:4 159:24 164:2 175:24 177:1,6,7 190:16 191:21,21 191:24 192:15 201:2 205:17 206:7 208:2 209:6 211:24 212:1 213:17 229:14 236:16 238:16 250:3 251:15 252:6,9,22 261:22 266:15 275:22 277:18 278:7 280:3 296:16 301:11 302:3 303:17 304:3,5 305:3,12 323:7 332:1,9,12 333:12 333:14 TexIR 277:10 text 29:22 30:5 95:11 thank 8:6 9:22 10:7 22:24 25:12,13 44:11 77:23 78:9 98:4 105:3 110:1 123:3 140:23 189:2 189:3 198:25 202:23 205:8 238:8 242:24 249:3 250:24 277:16 280:20 282:22 289:6 292:20 293:5 293:7 294:24 301:7 317:18 320:20 therefor 331:7 thick 253:9 thing 9:25 12:21 19:11 169:12 222:18 276:10 316:11 things 11:7 28:19 148:7 149:13 150:7	160:4 190:11 196:12 231:20 295:6 313:16,18 317:8,9 think 11:21 12:17 16:23 19:9,18 27:16 32:14,17 35:14 40:13 50:12 59:4 67:24 72:3 96:13 98:7 101:6 109:19 120:6,13 128:1 138:3 139:4 154:6 172:14,18 181:8 184:25 195:23 198:1 201:1 203:6 206:20 213:13,20 216:14,25 217:20 218:1 222:23 231:19 234:3 243:2 243:9 260:12 261:6 266:25 282:6 287:18 289:22 290:3 295:7 299:4 301:17 302:4,11 306:9 309:6 310:4 313:9 323:5,24 thinking 42:23 43:23 47:15 third 249:15 251:7 252:24 254:13 thought 106:4 166:2 223:2 224:23 271:19 284:13 thousand 180:5 185:22 three 15:13,24 22:17 103:5 161:12,13 216:25 224:5 306:25 307:1 308:4 308:7 316:21 thumb 254:14,19 255:6 313:17 thumbprint 58:18 59:23 tickets 60:10	time 8:6 9:25 15:15 15:16 16:13 29:2 32:16 39:9 41:7 44:20,22 48:17 54:1 54:8 58:7 62:24 63:2 65:7 74:13,16 74:19,25 75:22 77:16,18 95:14 104:6 109:10,12 121:16,17 125:6 132:2,3 153:3,4,11 153:21 154:9 168:21 169:18,23 170:1,2,4,13,15,16 175:10 178:9 180:23 181:3,17 184:20 185:14,16 194:4 196:2 197:6 200:4 214:9 220:9 224:13 228:4 230:16 249:7 252:15 254:17 260:8 266:6,8,15 285:14 287:7 292:21 298:11,19 311:24 316:3 323:17 329:2 331:6 332:22 timeframe 66:3 timeline 274:22 times 20:21 22:20 175:2,6,13 178:7 241:7 269:13,22 292:15 293:14 315:18 timing 171:19 tired 23:3 319:5 title 5:16 6:6 32:6 145:11 249:16 250:20 304:12 titled 275:9 titles 275:5 today 12:13 17:6 18:2 19:5,17 20:10 80:9 151:9 152:15	152:23 154:9,21 158:3 160:23 170:9 189:11 213:13 220:9 227:6 233:18 239:24 241:15 246:16 252:2 323:20,24 327:23 told 62:1 201:7 229:22 287:13 296:24 297:2,17,17 301:15 Tom 61:21 tomorrow 159:1 196:13 Tony 5:23 21:9 88:17 220:22 top 40:13 76:18 212:11,21 213:12 214:14 246:13 254:7 255:21 262:14 275:5 278:1 289:11,25 301:21 306:19,20 topic 105:11 106:2 107:21 128:10 135:25 136:12,22 137:17 138:7,9,10 138:17,20 139:12 139:13,14,20 143:22 233:24,25 234:1 239:8,18 316:12 topics 19:4,4,15 238:22,25 239:2 total 93:19 110:17 111:16 169:7,14 190:17,20 210:16 totally 216:5 touched 170:19 233:24 Tracie 219:25 track 170:4 175:6 322:18 tracked 247:25 tracking 169:23
---	---	---	---

JOE PETERS

4/30/2014

46

321:2 322:5 Tracy 220:10 traditional 189:25 209:24 210:23 233:6 traffic 24:16 25:3,4 25:17,18 178:14 236:6 train 276:5 trained 178:20 214:24 244:6,7,9 246:21,22,23,25 247:3,4,5 252:13 253:3 254:1 257:23 259:21 262:18 267:20,21 268:20 271:18,24 273:7 279:7,11 295:8,12 295:17 296:7,15,18 297:1 298:25 trainers 239:10,14 245:10,11 training 6:19,23 7:4 15:4 166:3,6,11,18 166:19 167:5 170:24 174:23 178:22 187:21 188:14,17 239:8 243:1,20,22,23 244:1,2,8,11,12,14 244:18,22,25 245:3 245:5,6,8 246:15,17 247:7,9,16,20,25 248:3,4,5,7,8,13,14 248:15,19 249:5,8,9 249:11,20,24 250:6 250:10,11,12,13,15 250:17 251:5,21 252:1 253:5 254:6 254:17 255:1,5 263:1,25 264:2 265:3,14,16,21,23 265:25 266:2,7,9,16 266:23 267:3,7,17 267:22,23,25 268:1	268:2 270:11,18 271:3,4 272:8,21 273:4,14,24 274:10 274:12,13,16,23,25 275:1,4,10,11,16,23 276:3,11,15,20,25 277:4 295:7 307:17 307:19 trainings 251:11 272:11,13 273:15 274:19,20 trains 245:11 transaction 237:20 transactions 48:12 175:8 211:1 296:3,4 328:18 transcript 60:24 230:8 331:5 332:15 332:17 transition 280:21 transmitted 124:20 transport 188:15 transportation 30:10 31:20 82:9 167:13 189:23 193:25 194:4,7,12,23 195:14,18 196:8 198:22 199:2,3,4,11 199:17,21 200:1,5,7 200:12,18,24 201:14,20,22,25 204:15 217:6 312:20 313:1 travel 102:13 171:21 traveling 97:9 101:20 101:21 208:2 299:21 travels 102:21 TRAVIS 332:9 trends 177:19 trial 329:2 tried 224:25 300:20 trigger 67:2 trip 103:6,8,16 104:22	trips 103:5 trooper 64:1 67:14 true 51:4 92:5 157:15 296:5 298:10 303:2 331:5 332:16 Truett 168:7 truthfully 12:24 try 61:4 104:6 132:12 147:25 165:24 trying 21:6 23:5 33:8 58:8 154:3 186:5 193:14 237:10,11 291:20 305:7 306:14 314:15 319:2,4 323:5 Tuesday 221:4 turn 29:4 147:22 181:11 219:12 220:20 238:21 249:15,25 251:13 254:7 262:13 263:16 264:25 266:24 273:11 277:7 turned 63:7 151:11 211:12 216:3 272:23 turning 198:11 turns 221:3 TV 94:21 95:1,2 Tweet 288:25 289:2 Tweets 315:10 twice 123:5 twisted 203:7 Twitter 282:6 289:7 two 15:22 22:3 44:18 45:2,3,9,21,23 46:5 46:10 50:3,7,21 52:5 53:17,24 56:14 103:6 109:19 155:11,24 157:20 165:2 179:22 203:4 206:18 216:21 221:11 228:25 253:18 266:24	267:6,15 274:15 278:9 298:17 307:14 308:3,9,25 309:15 312:3,6 313:12 316:21 318:17 two-person 195:11 tying 120:7 type 33:2 47:4 60:3 94:5 111:19 128:3 149:23,25 151:12 151:18 152:7 156:5 157:1,7 158:6 165:8 182:20 210:25 316:1,1 types 110:23 210:4 222:13 typically 64:3 208:21 285:20 286:3 300:20,25 308:1 T-E-X 250:2
U			
U 331:1 uh-huh 39:5,7 44:13 49:2,21 55:25 56:19 66:21 87:8 108:25 124:3 127:11,13 192:13 209:17 217:4 234:12 238:7 240:10,14,18 241:21,21 243:8 244:3 245:9 246:9 247:10 252:7 253:10 257:15 260:21 261:14 262:16 266:13 267:11 268:15 271:10,10 274:17 276:23 295:19 297:14 306:24 308:14 309:19,22 318:5 320:15 321:22 322:17 ultimate 193:1,3			

JOE PETERS

4/30/2014

47

<p>223:8 226:20,23 227:2 228:18,19 ultimately 24:2 33:16 33:21,23 41:6,15,20 97:20 223:14 227:7 228:23 229:3 255:9 unable 34:18 249:5 unaware 194:10,11 unclear 284:11,15 underfunding 231:23 undergo 166:6,19 174:22 187:21 underlying 54:14 55:8 underneath 302:1 304:2 understand 10:5,11 10:14,22 11:5 12:7 12:25 16:17 17:13 26:25 28:8 39:18 83:9 146:1 148:3,7 148:8,9,9 154:5,25 155:21 159:23 179:17 189:16 190:8,13,14 191:12 198:5 199:6 208:15 210:7 214:23 221:14,22 222:6,9 223:3 224:5,15 225:10 226:5 228:4 230:7 260:15 271:7 295:15 296:8 303:6 306:15 307:23 309:2,15 313:10 314:16 316:18 317:12 318:1,7 understanding 12:14 26:10 29:7 30:3 42:22 43:22 53:6 57:9 61:7,18 66:19 66:25 70:11 72:5 73:5 84:16 113:12 129:20 133:11 149:21 154:22 157:22 163:22</p>	<p>164:6 165:21,22 179:14 191:24 194:2,22 199:12,13 200:13 220:25 224:8,22 227:25 228:19 229:6 246:19 265:4 275:1 275:14 290:15 303:4,8,12 310:12 317:19 328:11 understood 9:21 10:4 17:14 69:16 189:19 195:25 222:1,16 232:11 237:9 271:12 272:2 underwent 188:14 unexpected 217:9 unexpired 53:20 252:10 257:13,18 unit 166:15 171:10 172:9,21 173:18 185:5 217:7 290:8 291:8 United 1:1 2:3 8:11 9:9 145:20 146:4,6 332:1 units 89:5 171:19 172:2,7,11,17 173:11,24 184:16 184:23 185:3,4,13 187:18 190:1 206:15,17 216:17 220:14 223:10,22 225:13,18,20,21,23 237:6,7 269:14,23 287:17 290:19 291:5 292:3,7,17 325:14 universe 226:6 University 6:12 15:1 205:18 206:7 unknown 316:6 untimely 23:23 upcoming 38:7 update 274:2 280:10</p>	<p>updated 154:23 180:11 273:23 280:8 323:2 updates 274:6 328:16 updating 74:9,9 upload 321:24 upwards 243:3 urban 67:20,22 use 14:6 31:23 40:10 41:23 47:5 49:6 58:16 64:20 75:4 83:17 103:15 177:9 182:3,7 183:8 199:17 200:5 208:3 208:23 225:9 237:6 256:6,8,9,10 258:21 258:23 261:16 281:15,25 304:15 306:22 308:11 309:25 uses 222:14 308:22 usually 48:3 utilize 172:20 utilized 6:8 152:12 171:10 178:19 186:13 192:14 utilizes 173:11 utilizing 151:5 U.S 2:5 4:6 143:24 144:5,16,24 145:5 146:11,18 332:20 333:13</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>v 1:4 332:4 vague 29:11 74:4 90:14,22 106:16 114:3 119:12 120:6 135:18 139:4 140:9 141:3 208:4 308:23 317:13 318:20 valid 37:7,7,18,18 48:18 126:6 146:20 257:21 260:22 261:13,21</p>	<p>vandalism 300:21 Vanisree 123:16 variations 57:7 varies 72:3 various 13:20 20:20 22:20 48:19 159:25 193:11 209:15,18 216:16 220:14 311:8 315:8 317:10 vary 13:23 Veasey 1:3 2:9 8:17 332:3 vehicle 24:16 vendor 185:18 venues 281:6 veracity 62:14,17 verbal 117:7 288:2 verbatim 303:20 verifiable 40:7,9,22 41:1,3,4,6,7,9,14,15 41:19,21,23 verification 45:14 47:7 78:5 verified 45:17 verify 35:13 37:14,24 41:12 70:19 78:13 96:8,11 249:22 302:2 verifying 48:20 version 99:21 212:24 versus 172:21 view 218:23 222:22 224:17 225:12 227:6 231:24 233:1 324:12,16,17,21,24 views 208:19 Vinger 61:21,25 62:8 62:8 63:2 Vinger's 62:14 violate 133:24 violated 163:4 visa 144:2 156:5 visible 300:17,21 visit 203:10 204:12 205:3 262:25</p>
---	--	--	--

JOE PETERS

4/30/2014

48

<p>263:14 295:5 visits 204:8 299:11 volume 168:22 216:18,19 284:21 285:13 voluminous 231:24 voluntary 166:9 vote 26:19 40:2 52:8 52:10 53:3,4 57:16 127:1 161:24 164:5 203:6 256:11 258:18,22,24 261:4 302:3 303:3,7,10,17 303:19,23 voter 26:12 34:13,13 34:17,24,25,25 35:2 35:3,6,7,8,13,16,25 36:1 54:18 56:8,17 57:16 61:4 66:22 68:10 108:1 109:5 113:11 117:12 118:3,11,18,22 160:13,17,23 161:1 161:3 176:7,9 210:1 220:3 233:9 262:24 302:6 voters 3:4 8:19,21 26:16 86:5 105:6 108:11,21 109:14 110:15,17,19,20,21 111:5,16 117:15,18 117:23,25 119:3,15 120:18,19 122:17 128:24 130:20 133:7,9,15 134:17 138:11 140:15 141:15 240:16,20 voter's 27:20,22,24 57:15 votes 303:5,13 voting 119:1,18 181:18 258:9,15 260:7,23 261:21 262:23</p>	<p style="text-align: center;">W</p> <p>W 3:11 331:1 wait 9:25 175:2,4,6 175:10,13 178:7,9 219:15 walk 61:4,5 walked 151:9 152:14 want 10:24 12:21 14:9 18:3 19:10 30:22 86:25 91:17 106:8 131:24 147:21 148:7 159:5 160:19,20 163:19 177:22 189:4 190:11 192:11,23 195:20 198:25 210:7 211:11 212:10,11,13 213:13 219:12 220:20 224:3,14 226:5 228:3 230:8 237:10 251:19 258:18 261:16 295:5 297:11 303:9 315:16 316:25 328:15 wanted 78:13 151:11 159:8 163:8,11,25 174:3 177:16 206:1 212:5 213:24 256:16 258:21,23 260:9 261:2,4 287:4 316:9 323:15 wanting 92:22 wants 318:11 wardens 160:7 warrant 60:8 61:3,8 61:13,14 62:10,21 62:22 63:1,7,11,15 63:17,18,22,24,25 64:3,4 165:11,17,18 285:1 warranted 244:17 warrants 62:2 67:2 67:15</p>	<p>Washington 2:7 3:8 wasn't 33:1 202:24 254:5 295:12 waste 95:17 132:2,3 215:1 water 10:20 Watkins 21:9,11,19 21:24 140:2,3 221:5 way 40:21 47:14 122:19,21 124:5 146:15 147:25 221:17 249:2 314:20 315:3 319:7 324:11,12 web 315:22 WebEx 246:15,17 247:15,24 249:20 250:6 251:5 265:21 265:23 266:4 webinar 247:24,24 248:12 266:21 webinars 240:15 website 86:3 94:10 234:19,20,22 277:18 278:1,19,20 279:3,17,24 280:8 280:12,15 301:20 303:15 304:20 305:10,11 307:11 315:3,11,19 316:17 318:2,7 week 61:2 267:24 269:25 292:18 weekend 95:24 weekends 292:1,3,5,7 292:8 weekly 321:13 went 15:9,10,11,21 15:25 16:3 23:22 63:5 154:10 175:11 184:23 weren't 58:17 61:14 63:5 209:9 235:8 290:12 295:9,17 328:6</p>	<p>West 1:19 2:21 191:21,24 western 21:16 Westfall 2:4 9:8 we'll 10:16 81:2 125:11 180:19 213:22 230:7 329:1 we're 8:1 9:14 14:9 19:11 33:8,12 40:12 40:14 45:13 48:8,12 48:13 64:25 84:11 84:21 86:17 87:12 94:15 164:21,21 170:4,14 171:12 172:8 175:12 190:2 197:23 225:2,4 263:24 301:13,15 303:25 325:8 326:20 we've 11:15 33:11 77:13 127:1 164:25 178:13 179:8 189:10 196:12 211:2 224:2 232:21 233:24 234:2 236:5 236:14 237:1,10 298:6 whatsoever 120:1 wheel 112:13,15,18 113:6 121:14,16 124:4,6,8,16,17,20 124:23 125:1,2,21 126:1,5,9,14 128:3 128:22 129:3,5,18 129:18 132:8 134:23 135:2 148:10,12 149:4,6 149:19 152:6,9,12 158:21 320:10 white 150:21,22 151:7 152:15 Whoops 219:11 310:2 wide 314:5 willing 171:7</p>
---	---	--	---

JOE PETERS

4/30/2014

49

WILMER 3:7 windows 284:12 wish 327:23 328:9 withdraw 19:3 118:14 witness 1:14 5:9 6:10 9:6 18:10,22 19:1 19:12 23:4,7,10 24:20 29:14 30:19 33:19 62:16 73:14 74:6 77:25 80:4 89:23 90:13,19,23 97:13 100:18 101:6 101:16 102:11 105:2,17 106:4 107:19 111:23 112:23,25 113:8 114:15 127:21,24 130:8 136:6,10 142:16,23 147:11 153:24 154:1,3 189:2 226:23 239:3 246:11 247:13 251:23 292:24 294:18,24 301:8 319:23 323:10 330:1 332:14,16,18 332:19 Wolf 3:16 9:4 woman 55:22 306:22 won 223:11 wondering 238:17 314:6 worded 237:14 words 27:16 221:11 304:15 308:6 317:3 work 16:3 70:22 95:21 176:17 182:9 182:16 197:22 266:8,14 291:23 295:13 296:1 worked 15:8 16:15 183:10 238:2 working 16:13 45:13 164:21 218:3 237:8	317:17 works 123:13 world 195:17 worry 17:4 216:24 worth 5:18 24:7 60:25 wouldn't 50:12 90:4 95:22 101:10 161:2 177:19 194:23 215:13 241:8 296:23 301:1 303:9 318:7 write 214:9 writing 198:5 written 57:10 65:24 196:9,13 204:21 205:6 216:6 288:15 294:12 298:14 Wroe 5:24 88:18 wrong 118:13 132:1 132:3 136:2 <hr/> X <hr/> X 199:10,16,23 200:19 <hr/> Y <hr/> yea 228:19 yeah 14:11 23:8 28:21 40:4 48:8 55:11 83:10 84:8 92:12 106:19 127:25 136:10 139:7 147:14 161:10 163:2 182:19 198:19 213:1 214:4 219:17 220:5,7 224:7 229:17 245:7 260:21 264:24 271:6 283:24,24 285:3 286:7 309:3 313:14 year 16:11 48:10 126:3 155:14 184:7	184:10 211:2 years 15:6,10,13,13 15:22,24 16:1,8 28:2 44:18 45:2,3,9 45:21,23 46:5,10 49:17 50:3,7,21 52:5 53:17,24 56:14 73:18,25 74:24 75:3 75:5,8,10 125:14,14 152:16,20,22 154:19 155:21,22 156:8,17 165:2 177:20 181:6 192:16 278:9 298:17,18 Yep 139:15 238:20 yesterday 20:20 York 2:17,17 24:3,4 young 3:4 8:19,21 128:24 younger 75:12 Y'all 163:3 176:1 223:6 <hr/> Z <hr/> Zavala 15:8 zip 310:22 321:8 <hr/> \$ <hr/> \$1,000 24:7 \$100 24:6 \$200,000 230:12,15 230:17,22 231:1 \$80 200:16 \$845,000 170:11 210:16 <hr/> 0 <hr/> 00220420 186:10 08540 3:2 <hr/> 1 <hr/> 1 5:16 18:6 32:6 34:9 34:10 110:18 138:14 205:10 224:16,18,21 225:2	225:11,12 227:7,10 252:21 255:22 302:25 1st 6:3 110:8 111:11 1,000 23:20 24:6 1,900 218:21 10 19:12 127:5,6,7 219:21 238:23 239:8 10th 219:13 220:21 221:4 10-2-13 6:20 10-3-13 6:18 10:19 77:21 10:39 77:21 10013 2:17 11 19:13 126:12 238:23 239:17 11th 276:22 110 6:2 12 19:13 49:17 75:3,5 196:23 238:23 240:2 12th 2:17 12-31-2014 333:12,15 12:12 219:21 12:16 147:15 12:44 147:15 123 6:4 12548 3:17 13 19:13 29:4 234:1 238:24 239:4 241:6 247:7 254:25 263:17 14 5:15 6:9 19:13 26:7,10,22,24,25 27:9 28:22 36:19 37:1 40:2 57:17 77:9 81:8 83:16 95:11 101:18 105:5 105:9 106:15 107:2 107:5,13 108:18 109:2,7,21 111:8,13 114:21 117:5 118:22 119:1,17
--	---	---	---

JOE PETERS

4/30/2014

50

120:17,23,24 127:2 133:14 135:1,13 136:18 137:1,11 143:4 167:4,8,10,18 167:24 168:11,13 169:2 170:7 174:3,6 174:17 175:11 176:23,25 178:1,5 179:21 184:10,14 186:14,15 195:16 195:17 196:3,5 208:18 217:15 312:23 14th 293:15 14's 210:10,14 14-related 142:10,14 143:15 14-required 109:15 134:17 145 6:5 147 5:5 15 5:17 6:6 32:6 145:11 15.181(c)(1) 34:8 15.181(d) 36:9 15.182 40:5,25 15.182(2) 44:12 15.182(3) 51:9 15.182(4) 41:17 53:7 15.183 306:18,21 312:9 15.183(a)(1) 54:11 15.183(a)(3) 57:24 15.183(a)(6) 68:22 15.183(b) 69:12 15.183(c) 70:13 15.46 6:7 145:13,14 151.181 77:6 151.184(a) 73:17 151.184(b)(3) 75:16 151.184(c) 75:24 151.185 77:3 16 151:11 16th 89:11 161 2:16	17 5:13 1706 136:19,24 1729 83:25 84:3,5,16 85:2 86:10,15,16 18 16:1 92:15 218:21 186 6:7 1875 3:7 189 5:6 19 19:13 135:25 136:12 138:7 19th 61:2 19:21 220:21,24 197 6:9 1997 23:14 <hr/> 2 <hr/> 2 5:2 18:6 19:6 224:24 225:2 237:5 258:6 272:5,6 2nd 5:24 88:19 273:5 2,000 46:13 243:10 243:11 2,200 243:10 2-1/2 15:13 2.4 199:15,16,20,24 2:13 221:5 2:13-cv-193(NGR) 1:5 332:5 2:50 238:10 2:55 238:10 20 15:10 19:13 29:5 29:25 138:9,10 156:7,16 235:10 2000 169:1 243:3 20006 3:8 2005 136:19 138:14 2007 136:18 2009 136:18 2010 1:19 2:22 2011 6:3 26:8,11,24 32:12 42:23 58:12 110:8 113:5 114:17 114:20 127:12 129:12 138:2,15 247:4 248:14	2012 16:10 139:11 140:12 141:9,18 142:9 143:3 198:20 247:3,5,7 293:14 2013 5:19,24 59:5 60:25 61:3 66:4 88:19 96:14 135:8 213:9 219:13,21 220:21 246:1,4,22 247:7,8 251:1 254:18 255:1,2 267:4,17 268:5,8,16 272:9 273:5 276:22 282:14 2014 1:11,16 267:20 268:5,8 272:11 293:15 332:18,21 333:7 202 2:7 3:8 205 6:11 20530 2:7 21 19:13 139:12,13 139:14 201:17 21st 246:4 211 6:12 214 4:3 218 136:18,24 219 6:14 227 218:20 228 190:18 23 19:13 207:9 238 5:6 24 19:14 24th 184:8 251:1 254:18 246 6:15 25 92:7 172:11,12,18 177:14 206:20 207:4 214:25 224:19,21 225:13 225:13,18,20 226:25 227:10 25th 89:13 25-mile 206:2,11 207:20	251 6:16 254 173:22 228:13 26 309:6 26th 19:8 216:13,15 246:1 268 6:17 269 211:3 27 138:15 27th 139:10 273 6:18 276 6:20 7:1 277 7:5 28 5:14 28th 89:13 281 2:12 285 7:8 289 7:10 292-8332 2:18 293 7:12 <hr/> 3 <hr/> 3 18:6 225:2 227:22 228:4,7,15,20 229:2 229:8,12,16 237:6 254:8 268:16 306:19,20 3rd 213:8 3.2 273:12 30 1:8,11,16 92:7 156:7,17 30th 293:14 30(b)(6) 238:19 300 1:19 2:21 301 5:7 302 7:14 303 277:10 305-4355 2:7 31 141:18 31st 139:11 140:12 141:9 142:9 143:3 32 5:15 246:7,8 320 5:7 322 7:15 323 5:8 330 5:9
--	---	---	--

JOE PETERS

4/30/2014

51

332 5:9 344 333:15 36 5:13 17:18,19,22 238:18 362 136:18,24 37 5:14,16 6:6 28:16 28:17 29:10 32:6 145:11 312:22 374-2725 3:13 38 5:15 32:2,3 306:17 312:7 380 4:7 333:14 380-6310 2:12 39 5:17 60:17,18 394-3000 2:23 <hr/> 4 <hr/> 4 255:20 259:1 273:11 4-AUSTIN-161020 331:14 333:17 4/27/2014 7:8 277:23 4:00 246:15 4:05 127:12 4:08 295:3 4:15 295:3 4:33 129:12 4:52 1:16 329:4 40 5:19 81:17,18 84:12 154:19 41 5:23 88:14,15 411 4:2 42 6:1 98:2,3 4201 2:11 424-2420 3:23 43 6:2 109:24,25 44 6:4 123:1,2 45 6:5 39:6 145:8 4589 333:12 46 6:7 187:12,13,14 463-2197 3:18 47 6:9 196:24,25 197:21 478177 250:2 48 6:11 205:11,12	49 6:12 211:15,16 213:7 214:7 4920 3:12 <hr/> 5 <hr/> 5 19:12 119:1,17 262:14 272:5 50 6:14 206:25 207:4 219:8 50-mile 207:21 500 3:2 51 6:15 245:23 512 2:23 3:13,18,23 52 6:16 216:25 250:23 332:23 521 30:20 82:9,12,15 521A.001 29:14,23 521A.001(f) 31:19 521.142 30:8,9 31:9 313:2,6 53 6:17 7:16 268:12 322:25 530 2:11 54 6:18 273:2 55 6:20 275:20 56 7:1 276:17 57 7:5 277:15 301:17 304:3 58 7:8 285:22 299:4 5805 3:22 59 7:10 39:24 289:9 <hr/> 6 <hr/> 6 1:8 19:12 167:14 201:8,10 262:14 332:23 6-21-13 6:16 6-24-13 6:17 60 5:17 7:12 28:2 38:6,8,14,19,23 39:2,16,21,23 44:17 45:1 73:25 127:2 252:11,15,17 257:11 278:9 293:6 61 7:14 49:10,22	302:20,21 62 7:15 322:20,21,24 63.001(b) 29:18 63.0101 29:20 646 2:18 653-7358 4:3 663-6262 3:8 <hr/> 7 <hr/> 7 19:12 48:9 127:5 211:1 264:25 7th 127:12 700,000 122:17 133:7 133:9 141:15 701 4:7 333:14 7203 2:6 75202 4:2 77 75:10 77068 2:12 78 184:20 191:13,13 78701 2:22 4:7 333:14 78711 3:18 78751 3:12 78752 3:22 79 92:5 791 82:18 <hr/> 8 <hr/> 8 5:5 19:12 8:54 1:16 81 5:19 83rd 80:18 83:25 845 170:17 88 5:23 890 170:17 <hr/> 9 <hr/> 9 19:12 219:5,7 238:21,23 9th 129:12 9,000 243:7 9-10-13 6:15 9-23-03 6:13 9-23-2013 212:4	902 3:2 950 2:6 98 6:1 16:2,2
---	---	---	--